G. R. S. IX-5]

Previous references.

Preserve

1918.

(cls)

File No. 63-18

Serial Nos. 1-2

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B for Nov. 18.

SUBJECT.

Memorials to H.H. praying for remissions.

---

2. To the Regr. Cl: Court - No. S.9635 & 28/11/18.
Forwards a copy of the order of H.H. the Maharaja rejecting the memorials of Devappa. praying for remission of sentence.

W D 1250—GPB—30,000 - 28-1-19

29/7/19

G. R. S. III—1] 1918.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 63-18

FILE HEADING.

Memorial of Devappa and 2 others praying for remission of sentence passed on them in Chitaldrug Sessions case no. 6 of 1917-18

From

The Registrar, Chief Court of Mysore

No. 162 Dated 24/27th Aug. 1918 Received 29-8-1918

Diary No. 3445	Enclos. 2 + 2 records. Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

Forwarded 2 memorials with the entire records.

NOTES AND ORDERS.

Ord. The facts of the case are stated in the Judgment of the Sessions Judge of Shimoga. The 3 accused were convicted and sentenced to death.

The Chief Court, on appeal, have examined

NOTES—First Sheet.

WD 1232—GPB—20,000—18-11-18

Serial No

the entire evidence and come to the conclusion that the approvers statement has been corroborated on material points and that the conviction is right and the sentence of death on the accused has been confirmed.

The 3 accused now pray for clemency on the ground that the evidence was not properly appreciated by the Sessions Judge and that the conviction has been based on the approvers evidence and the retracted Confessions of the 2nd and 3rd accused.

30/8.

30/8. (a) The 1st accused is the maternal uncle of the 3rd and also has married his sister. The 2nd accused is the mother in law of the 3rd & is the mistress of the 1st. They are all Bangajas residing in Vokalapur, a village in Molakalmuru Taluq, and the deceased Muniappa was a Bedar living in the same village and considered inferior in caste to the accused, and was the paramour of the widowed sister of the 3rd accused. The deceased is reported to have spent & defamed and misused the accused by saying that there was also the

NOTE—Contn. sheet.

Serial No.

unpleasantness caused by the fact that the 3rd accused was ~~prisoning~~ the mistress of a many superior caste. Hence there was strong ill will, and the 2nd accused cunningly won the deceased over on the pretext of getting rid of the 1st accused, and ~~to whom~~ sent him with the 3rd accused to bring some poison from his brother Nippia on the night of the 22nd August 1917. Nippia took them both through a forest, and on a pre-arranged signal, the third accused attacked the deceased and with a hatchet and killed him. The usual inquest, post mortem and ~~the~~ were held. The accused were suspected and arrested. The 2nd accused ~~the~~ her brother, the 3rd accused confessed their guilt. Nippia was made an approver, but the other two attacked their confessions. The Sessions Judge found all 3 guilty, and sentenced them to death, the Chief Court, on appeal, affirmed the conviction and sentence.

9) The accused now pray for mercy on the ground that the evidence has not been properly appreciated, that there is no satisfactory evidence to prove their guilt, that they are innocent.

6) That Nanayakkara's death was due to several injuries on the neck caused by a sharp instrument. The question is as to who caused the injuries. The approver's evidence clearly incriminates the accused. The evidence given by him is exactly the same as is contained in his confession statement given in used daily after his arrest. The evidence for the murder has been proved beyond

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-18—S.

WD-1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat.

CS File No. 63 of 1918.

Serial No.

doubt by the complaint lodged against the deceased by the 1st accused. The beating with stick by the 1st accused, the latter's threat against the 1st. The fact that the 2d accused then brother disappeared from the neighbourhood immediately after the murder is very significant. Immediately after the deed, Muppa sent her servant & the bull promised by the 1st accused as a reward, and the servant knows that the bullock given was brought by him. On the other hand also the evidence of the Villagers to show that the 3d accused the deceased appears went from the village on the night in question and subsequently mammalian blood was found on the cloth worn by the 3d accused. The approver's servant also says that he accompanied the 3d accused at 3 pm this village. Thus there are material corroboration of the approver's statement, the guilt of the accused is proved beyond any doubt. There appears to be no good grounds for showing any clemency

ES
3/9

Chief's)

I) There does not seem to be sufficient ground for clemency

1st member

CRS
27/9/18
ES

1) Mentrain is in Nuicamerchin. respectfully invite the remarks of the learned Chief Judge in the last paragraph of his judgt.

ES
3/9

3 pm
Rec'd 26/9

Read 24/9/1824/9 1359

CS

I agree

24/9/18

Circulate

CRS

1818/25-9-18 26/9 24/9/18 (may be disposed of by circulation P.T.O.

Servant) 28.9.18 CRS 27/9/18

NOTE—Contn. sheet.

(For Disposal by Circulation)

No. C. 289

6.10.1918

GENERAL AND REVENUE SECRETARIAT.

COUNCIL MATTER.

SUBJECT.

(Clause vi of the Schedule)

Memorial of Devappa and two others praying remission of sentence of death passed on them in Chitaldrug Sessions case No.6 of 1917-18.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

C S Balasundaram

Chief Secretary to Government.

2nd October 1918.

Extraordinary Member of Council.

First Member of Council. Opinion recorded.

Second Member of Council. Opinion recorded.

116
8.10.18.

Extra Member of Council. Opinion recorded.

1151-94.
6.10.18

7.10.18

DFN
BDN
BS

WD 2670—GRR—1,000—11-5-17

G. R. S. III-2]

General and Revenue Secretariat.

cb File No. 63 of 1918.

Serial No.

I do not see that any case for the exercise of clemency has been made out.

Reel
7.11.18

Lapse 4/11
8.11

Srkd. with a D.T.N. & a D.S.N.

8G
12/11/18.

Revised D.T.N. & Srkd.

14/11/18 8G
1/11

In favour of approval
Es
4/11

Dist. Memory

a/y/s
seen
5/11

Fair final note submitted for Excellency's
cs pmk up

W
6/11/18 D.S.N. submitted

Dewan
6/11/18

2453
7-11-18

NOTE—Contn. sheet.

WD A 1769—GPB—60,000—20-8-16—S.

Final Note by the First Member of Council.

Subject:—

Memorials of Devappa and two others praying for remission of the sentence of death passed on them in Chitaldurg Sessions case No.6 of 1917-18.

The facts of the case are stated in paragraph 4 of the office notes in courts file No.63 of 1918-19. Devappa and Thimmakka, the first 2 accused were tried before the court of Sessions, Shimoga for conspiracy to murder a young person named Thimmaga and the 3rd accused, Thimmappa for the murder of Thimmaga in pursuance of the conspiracy. The Sessions Judge found all the three guilty and sentenced them to death. The Chief Court have, on appeal affirmed the conviction and sentence.

2. The accused now pray for mercy on the grounds that the evidence has not been properly appreciated that there is no satisfactory evidence to prove their guilt and that they are innocent.

3. It is conclusively proved that Thimmaga's death was due to severe injuries on the neck caused by a sharp instrument. The approver's evidence clearly incriminates the accused. The motive for the murder has also been proved. There is material corroboration of the approver's statement and the guilt of all the accused is proved. There do not seem sufficient grounds for clemency.

4. The Council accordingly recommend that the memorials be rejected.

6 June 1919

First Member of Council.

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* memorials of Devappa and two others praying for remission of the sentence of death passed on them in Chitaldrug Sessions Case No.6 of 1917-18 *for His Highness' gracious approval.*

M. Visvesvaraya

Dewan.

9th Nov-1918.

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Memorials of Devappa and two others praying for remission of the sentence of death passed on them in Chitaldrug Sessions Case No.6 of 1917-18.

1.82

Order.

~~KRW~~

11/11/18

Chief Secretary

13.11.18

G. R. S. III-2]

General and Revenue Secretariat. | Ch File No. 63 of 1918.

Serial No.

Subd with draft and fair order of the order of H. H.
Draft to Regr Chief Court communicating the order & also put up.

861
19/11 Initials of Dewan

Chief Secretary)
Dewan)

2724
23.11.18

Signed by the Dewan 23.11.18

2 To the Registrar Chief Court
No. G 9635 D 28.11.18
Forward a copy of the order passed by H. H. on the memorial rejecting Petition.

RIAT.
12 DEC 1918

NOTE—Contn. sheet.

REC'D.
29 AUG 1918

Bangalore,

Dated 24th August 1918.
27

DIARY No. 3445
19 -19
SECTION Courts
63-18
1

From

THE REGISTRAR OF THE

13297 CHIEF COURT OF MYSORE.

To

Chief
THE SECRETARY TO GOVERNMENT,
of Mysore
~~GENERAL AND REVENUE DEPARTMENTS~~.
Bangalore

Sir,

I am directed to forward a memorial addressed to His Highness the Maharaja by Devappa and 2 others accused in Chitaldrug Sessions Case No. 6 of 1917-18 on the file of the Sessions Judge of Shimoga Division and appellants in Criminal Appeal No. 63 of 1917-18 on the file of this Court.
Criminal Referred Case No. 8 of 1917-18.

The entire record of the case is herewith forwarded.

I have the honor to be,

Sir,

Your most obedient servant,

S. Venkata Ranga Iyengar
for Registrar.

GPB—1,000—16-8-12

To

The Private Secretary

to His Highness the Maharaja of Mysore,

BANGALORE.

The humble memorial of Thimmakka and Thimmappa, Prisoners Nos.2940 & 2941, respectively, under the - sentence of death, at the Central Jail, Bangalore, - most respectfully sheweth:

I. That they were accused of the murder of one Bedar Thimmaiya and tried by the Sessions Judge, Shimoga Division and they were convicted and sentenced to death by him; on - their appeal to the Chief Court, this conviction and sentence was also confirmed by that Court.

II That your humble memorialists beg to submit that - their conviction and sentence is erroneous and unjust, for - the following reasons which were not properly considered by - the Courts, Viz.,

1. The prosecution evidence about the motive of the memorialists to commit the alleged murder has been got up for the purposes of this case and the evidence has been improved in the Sessions Court, The Judges putting leading questions and getting admissions from the witness.

2. Tt is entirely false that the deceased was beaten by the 1st accused with a sandal and on that account the - deceased was abusing him as alleged. If so the deceased - would have complained criminally against the 1st accused - for assaulting him with a sandal. If the alleged nullifying by the deceased was true certainly the first accused would

have

have complained against the deceased for insult &c.

3. There is not a particle of evidence to show that the deceased was keeping the widowed sister of the 3rd accused. Even the parents of the deceased have denied all knowledge of it before the Committing Magistrate but on the other hand they have stated that the deceased and the 1st accused were friendly and that the deceased was visiting him.

4. There is no independent evidence to corroborate the statement of the approver, about the conspiracy to murder the accused. It is improbable to believe that the conspiracy in such public places as open verandah of the 1st accused's house, on the public road and on the verandah of a School in Devasamudra on a sahandy day and all in ~~a~~ day times when it was possible for many people to observe.

5. Even if the 1st accused wanted to do such a thing there was no necessity to take the help of the approver who evidently was not in good terms with the 1st and 2nd accused on account of 2nd accused living in 1st accused house against his will, who is of a different village, when the 1st accused had in his own house besides the 3rd accused and another brother of the 2nd accused and a paid servant of the 1st accused.

6. The material discrepancies that exist between the confession statements of the approver and that on the 2nd and 3rd accused who were made as tutored by the Police while they were in Police custody clearly indicate that the approver's statement is false and that the Session Judge's observations in the 4th para of his judgment about the extraordinary ability of the 2nd accused are unfounded and imaginary, and the statement of the prosecution witness Dodda Thimma that the 2nd accused stated before him as follows "Though you are a man you cannot deal with him; and you will see what a female can do", as an after-thought and an improvement before the Sessions

Sessions Court and not stated by him before the Committing Magistrate.

7. It is highly improbable to believe that the deceased relieved on the alleged connected story of the 2nd accused to the effect that he would poison the 1st accused because he refused to give xx a share in his property to the 3rd accused and therefore she wanted to get rid of him and that he (the deceased) helped her in bringing the poison for the purpose. There is not a particle of evidence to show that there was any misunderstanding between the 1st and 3rd accused about the property nor any evidence to show that there was any good ground for the deceased to believe such a story and that he ever believed it.

8. The Courts entirely erred in believing the story without any tangible evidence on the record.

9. The story of the approver is highly improbable contradictory and being uncorroborated in material points, is unworthy of credit.

10. That the evidence of Hanumantha, 6th witness for prosecution stands xxxx uncorroborated, if what he stated was true the bullock which the 1st accused is said to have given him as the reward for committing the offence should have been produced either before the Police or before the Court. Nor is there any evidence to show that the alleged, and the, imaginary, bullock was under the possession of the 1st accused. Neither is there any evidence to show that the 6th witness took the bull from the 1st accused's home while it was possible and easy to produce the evidence in corroboration of the 6th witness' statement, the failure to do so by the Police clearly shows that the story about the bullocks is false.

11. That the third accused was suffering from itch at the the time the Police took article 2 (Panche) worn by him and that

a few blood stains found on it were due to itch is clear from the statement of the prosecution 10th witness Chenna Basappa and the Sessions Judge erred in connecting the - stains of blood with the murder.

12. If the approver's confession was voluntary and made immediately to the Police the Police should have immediately after his arrest taken the approver to his village and recovered the hatched article No.1 which is said to have been used in committing murder instead of waiting till his confession was recorded and then recever it after 4 or 5 days.

13. The contradictory statements made by the 2nd and 3rd prosecution witnesses Hanumantha and Basakka clearly - show that their evidence had been got up for the case.

14. The evidence of 4th and 5th witness for prosecution is highly improbable and unworthy of credit. If their evidence is true the approver who is a resident of the same village would have recognised them on the night in question and mentioned their names in his confession statement which has failed in corroboration even in this point.

15. The evidence of Dodda Thimma 14th witness for - prosecution is purely a concoction. It is full of improbabilities and the failure on the part of the Police to examine him immediately the Inspector went to the Village gives support to the accused's version that he was kept in Lock-up at Rampur for five or six days and was released on his - concocting to give evidence for prosecution. That there is a great improvement in his statement before the Sessions - Court over his statement before the Committing Magistrate indicates the eagerness of the prosecution to secure conviction by any means.

16. That under the circumstances of the case and -

and purely on such tainted and uncorroborative evidence, the Court erred in passing sentence of death on them; this sentence is very hard and cruel.

III That for the above reasons your humble memorialists pray that their memorial may be placed before His Highness the Maharaja for a merciful consideration of their case, and to acquit them of the charge. Your memorialists further beg that if they are not so fortunate as to ~~seem~~ secure a reversal of their conviction, at least the sentence of death passed on them may be commuted to any other sentence.

BANGALORE,
13rd August 1918.

Mark of prisoner (X) No 2941
Thimmappa

Mark of prisoner No: 2940
Thimmakka (X)

Chief Jailor.
D. C. Jail

24.8.18.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Friday, the 9th day of August 1918.

Present.

Sir LESLIE C. MILLER, Kt., Chief Judge,

and

Mr. Justice T.PARAMASIVA IYER.

Petition of Criminal Appeal No. 63 of 1917-18/Criminal Referred Case No. 8 of ~~1917-18~~ 1917-18 against the convictions and sentences by the Sessions Judge of Shimoga Division, under sections 302 read with section 109 of the Indian Penal Code in the case of the 1st and 3rd accused, and under section 302 of the Indian Penal Code in the case of the 3rd accused, in Chitaldrug Sessions Case No.6 of 1917 - 18.

APPELLANTS.

1. Devappa
2. Thimmakka
3. Thimmappa

(Accused)

J U D G M E N T.

The appellants have been convicted of the murder of one Timmaga on the 22nd of August last. The appellants Devappa and Thimmakka have been convicted of abetting the murder, and Thimmappa (the 3rd accused) of actually committing

committing it.

All the appellants lived together in a house belonging to the first accused Devappa. The second accused Thimmakka was Devappa's concubine and the 3rd accused is her daughter's husband. He is also Devappa's nephew and and brother-in-law and his father who married Devappa's sister had joined Devappa's house as a manaval-tana son-in-law.

The appellants are Lingayats, and the deceased belonged to the Doder caste and occupied a house in the same village. He was intimate with a widowed sister of Devappa's wife, (who seems to be alive) and of the third accused Timmappa.

The prosecution case is that in July 1917 ill feeling arose between Devappa and the deceased. The former accused the latter of mischievously removing some of his baling apparatus, and beat him with a shoe in his field. The deceased retaliated by publicly defaming the second accused Timmakka, alleging that she had been intimate with a madigar, by boasting that his own intimacy with Devappa's sister-in-law coupled with Devappa's association with the degraded Timmakka, placed them (himself and Devappa) on an equal footing, and by threatening to beat Devappa in public as he had beaten him.

Timmakka in consequence of those scandals persuaded Devappa to join her in a scheme for putting an end to the deceased, and enlisted the assistance of her brother Tippie of Oblapur village, and her son-in-law the third accused. These two persons in pursuance of this scheme induced

induced the deceased to accompany them from Obiapur to Konapur where they promised to procure for him a drug with which to cause the death of Devappa, and on the way to Konapur killed him with an axe.

This is the story which has been accepted by the Sessions Judge and the assessors, and accordingly Devappa and Timmakka have been convicted of abetting the murder of Timmaya, and Thimmappa has been convicted of the murder. Tippia has been pardoned and has given evidence under his pardon.

In our opinion all the convictions are right.

It is not necessary to discuss in detail the evidence of ill feeling and motive. Exhibit P_5 shews beyond doubt that Devappa complained against the deceased in July 1917 though the complaint does not seem to have come to anything: there is no reason to doubt the evidence that Devappa attacked the deceased with a shoe, and that was sufficient to prompt the deceased to slander him and Timmakka.

There is evidence no doubt that after July there was a 'compromise' of the dispute but that is very vague and in no way throws doubt on Dodda Timmaiah's evidence that the insults of the deceased were rankling in the mind of Timmakka: that seems highly probable, the more so because there is the evidence of her brother Tippia, that the story of her intrigue with a madigar was not altogether without foundation.

Having regard to the evidence on the question of motive it seems by no means improbable that a scheme was

devised

devised, as Dodda Timmie alleges, to rid the village of the presumptuous Bedar.

The principal evidence is that of the approver Tippia: the Sessions Judge has admitted, apparently to corroborate him, a confession made by him on the 8th September to the Amildar at Challakere. It may be doubted whether this statement can be admitted as corroboration under section 157 of the Evidence Act; it is by no means clear that the Amildar of Challakere was legally competent to investigate the fact within the meaning of that section, and the statement was made more than a fortnight after the murder. We did not however ask the Government Advocate to argue this question, and do not therefore decide that the statement is inadmissibl but it was made so long after the murder as to be of little if any value as corroboration of a subsequent statement - and it may be disregarded.

But the statement in the Sessions Court does seems to be a natural and truthful statement: though in the statements of the second and the third accused it is said that Tippia was on bad terms with his sister, and her son-in-law, there is no hint of it in the cross examinatio of the witness, and it is to a high degree improbable that he would accuse himself of assisting at a murder merely to get his sister and niece's husband into trouble. It is true that he does not say that he himself actually took part in the killing but his story is that he led the way, chose the place, supplied the weapon and gave the signal for the murder, so that he does not try in any way to exculpate himself at the expense of others. It is probably true that he did not at once fall in with the wishes of his sister and her paramour; an assassination is

is not an enterprise to be lightly undertaken: but he does not deny that ~~he~~ once he was persuaded, he did his best to carry the scheme into execution.

He and his sister disappeared from the neighbourhood after the murder and returned and surrendered to the Amildar and Police Inspector on the 6th of September: this is proved by the Inspector who also proves that Devappa was arrested on the 28th of August and the third accused Timmappa on the 1st of September. The latter made a confessional statement on the ~~28th~~ 4th of September. In these circumstances there is no difficulty in believing Timmappa's statement that having heard that Devappa and Timmappa had confessed, he and his sister thought the best thing they could do was to give themselves up lest worse should befal them at the hands of the police.

In his account of the conspiracy so far as he knew it and of the murder there is nothing improbable: the weakest point perhaps in the case is the evidence as to how the second accused induced the deceased to believe that she was willing to help him to get rid of Devappa, but with that the approver had nothing to do; Dodda Timmiah who is the only witness on the point and who professes to have heard the story from the second accused herself was not cross examined upon this point, and it is impossible to say that his evidence is incredible.

However that be the approver's evidence cannot be rejected on account of any weakness in this part of the case, and it is difficult to find any satisfactory reason for refusing to accept it. None the less we must before accepting it see that it is corroborated in material particulars.

As

As to Devappa there is corrobotation in the statement of the 6th witness for the prosecution, Hanumantha, the approver's servant. This man was examined by the police before the approver was taken into custody, and there does not seem to be any reason to reject his evidence. He proves that he escorted the third accused home from Obiapur on the night of the murder, and next morning took a bullock from Devappa and brought it to his master's house. It is part of the story of the approver that he was promised a bullock or 50 rupees by Devappa if he would join the conspiracy and help in the murder, and the evidence of Hanumantha corroborates him on this point.

Taken with the evidence as to the ill ~~will~~ feeling there is sufficient to justify the conviction of Devappa. It is not necessary to rely on the retracted confessions of the second and the third accused in order to bring home the crime to him.

As regards the second accused Timmidu, we have in support of the approver's statement the evidence that she was the person most grievously scandalised by the deceased's insults, and the evidence of Dodda Timmi that she was the person most determined to take revenge for them. The approver is her own brother and as has been said her statement that he was ill disposed to her is not supported by evidence.

It is not necessary to rely on her retracted confession Exhibit P 19 though it is not possible to say that the Sessions Judge was wrong in accepting it as an incriminating statement: in it she throws the onus of devising the scheme on Devappa and admits that she at his instance

instance induced the deceased to go with the third accused to get 'poison' from her brother at Oblapur:— there seems no reason to doubt that it is a voluntary statement made under the circumstances explained by her brother; the fact that she withdrew it before the committing magistrate suggests that it was made in the hope that she might be made a witness, and when her brother was taken as a witness, and she was not, she and the third accused withdrew what they had said, and charged him with enmity against them. The amildar has quite rightly let her say just what she liked, without trying to get from her a clear and coherent narrative, and we have a very natural kind of statement and not at all one which is likely to have been put into the mouth of Timmakka by the police: she says nothing about her intimacy with Devappa, nor does she mention the insult to herself, and she says that it was Devappa who was anxious to get rid of the deceased and who devised the scheme of inducing the deceased to go to Oblapur to get poison: the incriminating portion of her statement is her admission that she fell in with this scheme and persuaded the deceased to go with the third accused.

There is however sufficient evidence without this statement to prove beyond reasonable doubt that she was an abettor of the murder, and it is not necessary to rely on it.

As regards the third accused there is amply sufficient corroboration on the record. We may discard the evidence of the Vitlapur witnesses who say they saw

him

him leave their village with the deceased: these witnesses do not seem quite consistent and may have been selected only to strengthen the case: but there is no reason to discard the evidence of the Oblapur witnesses who saw the third accused pass into their village on the night of the murder, and leave it again in the company of the approver: and their evidence affords very strong corroboration of the approver's statement against this accused.

There is also the evidence of Hanumantha (the sixth witness for the prosecution) which has been already considered and accepted as against Devappa, and this evidence is really conclusive against the third accused. He was arrested on the 1st of September and made the confessional statement Exhibit P 14 on the 4th of that month: the other evidence no doubt shews that it is substantially a true statement, but it is not quite so clear in the case of this accused that it was a voluntary statement, and it is possibly safer to exclude it from consideration.

In the result the guilt of all the accused is established: their conspiracy to murder the deceased cannot be extenuated by the fact that they had some ground of provocation against him, the convictions and sentences of death are confirmed and the appeal is dismissed.

It seems desirable to observe that the Sessions Judge ought not lightly to take upon himself the duty, which is properly that of the Public Prosecutor, of

questioning

questioning the witnesses with a view to eliciting from them facts favourable to the prosecution: and that if he finds it necessary as may occasionally happen to ask questions for the further elucidation of statements already made by a witness, he should be careful to allow further examination by counsel as to any new fact which may thereby be elicited.

(Sd.) Leslie C. Miller

CHIEF JUDGE.

(Sd.) T. Paramasiva Iyer.

JUDGE.

'Copy'

S. Venkata Rama Iyengar

Dy. Registrar.

I.S.

To

The Private Secretary

to His Highness the Maharaja of Mysore,

BANGALORE.

The humble memorial of Devappa Prisoner No.2942 under sentence of death at the Central Jail, Bangalore, most respectfully sheweth:

1. That your memorialist was charged before the Court of Sessions, Shimoga Division, for abettment of murder of one Thimmaiya; he was convicted of the offence and sentenced to death with two others, on appeal to the Chief Court in Criminal Appeal No.63 of 1917-1918 this conviction and sentence was confirmed.

2. That your humble memorialist respectfully begs to submit that he is not guilty of the offence with which he is charged it is a false case spitefully set up against him; his conviction and sentence is unjust and cruel.

3. The facts of the case as spoken to by the prosecution witnesses are briefly these, viz.,

The first accused is your humble memorialist; the third accused is his sister's son; the second accused is the third accused's mother-in-law and in no way connected with the first accused; the approver Thippiah is her brother; the deceased Thimmaga is a Bader, whereas the accused are all Lingayets. It is alleged that the first accused is keeping the 2nd accused but denied by him. It is also alleged that a widowed sister of the 3rd accused was in criminal intimacy with the deceased. It is said that sometime before the 22nd August 1917 (date of the alleged murder) one Gangiah (Lingayet) was playing on Violin in the house of the first accused, the deceased Thimmaga came and sat near him, when the first accused is alleged to have told him

that it was not proper for him (deceased) a Bader to sit so close to a Lingayet; the deceased feeling it an insult left the place; that after this, one morning, the first accused saw that some - pulleys attached to his piccotta fixed to a well in his garden - were missing; the accused complained of the missing (Ex.P.2); some time after this complaint the first accused, it is said, beat the - deceased with a sandal in the presence of his uncle and some others. There was no complaint made of this beating, but yet it is said that the deceased went on talking freely to people, that he was insulted when he sat near a Lingayet Musicion by the first accused, as if he was of a lower caste; that the first accused was keeping the second accused, who had intercourse with a low-caste man; he was keeping a sister of the 3rd accused; where, then, there was any difference in status between them both, and also alleged to have said that he was beaten with a sandal privately, whereas he would one day beat the - first accused openly. That the 1st accused, in consequence of this threat, was at ill-will with the deceased; the 2nd accused wanted the first accused to punish the deceased for this insolence and threat; on the first accused, pleading his inability to do anything in the - matter, she herself began to befriend him with a view to kill him eventually, and that in pursuance of this end in view, she induced - the 3rd accused to take the deceased on the night of the alleged - occurrence to her brother, living in a neighbouring village, under pre-text of getting some poison from him to kill the 1st accused himself, who, it is said, she represented to the deceased, declined to give a share in the property in possession of the 1st accused, as due to her son-in-law, (the 3rd accused) and also to remove the obstruction, - which he was, to the deceased's having a free inter-course with the sister of the 3rd accused. Accordingly the third accused and the - deceased went in the night of the 22nd August 1917 to the approver's village; there, the approver joining, all the three were going to an-other village through Kudlugudda forest with a view to get the poison wanted. On the way, in the forest, at a signal given by the approver, the 3rd accused cut the deceased down with the axe supplied by the - approver. These are the leading facts of the case for the prosecution.

All these facts may be conveniently grouped under three heads.

Firstly, facts, proving, ill-will between the accused and the deceased, in other words showing motive for the deed.

Secondly, facts, amounting to conspiracy to kill Thimmaga and

Thirdly, proximate facts leading to the killing.

Regarding the first group ill-will or motive: Gangiah examined before the Committing Magistrate as P.W.14 and before the Sessions Court P.W.18 says nothing about the insult or abuse between the first accused and the deceased on the occasion of his playing on Violin (see pages 106 & 57 of the printed records of the case, a copy of which is herewith submitted for kind reference). There is no other evidence in support of this story. - Then the Ex.P.2 a complaint petition made by the first accused - for the loss of pulleys is relied upon by the Prosecution. On a perusal of this (printed at page 68) it would be seen that no - mention of the deceased's name is to be found in it, nor is it to be gathered from it that the first accused complained particularly against any one for the loss; this complaint was not also - taken serious notice of by anybody and it was allowed to be dropped altogether (see page 117 line 28). The P.W.1, P.W.8, P.W.12, - P.W.13 and P.W.14 are examined to prove ill-will owing to shoe-beating. P.W.1 (approver) does not know anything personally about the shoe beating, as may be noticed from a perusal of his evidence. P.W.8 is the Patel; he too does not personally know anything about the shoe beating. There has been enmity of a longstanding between the Patel and this accused which fact would have been proved, if the Counsel for the accused who defended him before the Sessions Court, had been left to do his duty without any unnecessary interference by the Sessions Judge; but he was not so allowed. Hence the - accused was very much prejudiced in placing all his available - evidence to establish his innocence (See the Judge's notes Page 6). However a perusal of this Patel's evidence would show only that he heard the deceased saying that he would openly beat the first -

accused one day with a shoe for the insult offered him and that he (witness) advised him that it was not proper for him to do so; when none of the accused was there. P.W.12 is the mother of the deceased; she was examined as P.W.6 before the Committing Magistrate (page 97); she was examined as P.W.8 before the Court of Sessions (page 48); a comparison of the two depositions will at once suggest that there is a considerable improvement in her deposition as given before the Sessions on that given before the Committing Magistrate. Nevertheless it only proves that the first accused and the deceased (her son) were friendly; in other words, it does not prove that there was any unfriendliness between them at or about the date of the alleged occurrence. P.W.13 is the uncle (father's brother) of the deceased. His evidence at page 50 especially the Cross examination shows that both the first accused and the deceased were quite friendly. P.W.14 is next referred to; a perusal of his evidence printed at pages 52 & 53 will suggest that he is a most unreliable witness. He says before the Sessions Court that he is a relation of the 1st accused. Page 53 lines 7,8 & 9; but before the Committing Magistrate he says that he is not related to any of the accused. (Page 104 line 33). His evidence on the face of it looks as false and improbable. This is all the evidence for the prosecution to establish the motive. It is respectfully submitted that this evidence is not only interested and biased but also insufficient to establish any such motive to connect the first accused with the murder.

<u>The second group of facts, namely: the first accused being a party to any conspiracy to kill Thimmaga:</u> Excepting the interested testimony of the approver there is no other evidence in the case. The approver P.W.1 (Pages 24 to 33) is not corroborated at all on any of the facts spoken to by him affecting the first accused, whatever may be the worth of his testimony as against the other accused. There is not one witness or one single circumstance in the whole case which may be taken as corroborating his testimony, regarding this accused. It is needless to say here that the retracted confessions of the 2nd and 3rd accused will be no such corroboration nor is it in any way -

evidence as against the first accused under any of the Sections of the Indian Evidence Act. Hence the 1st accused having had - anything to do, in the so-called conspiracy to kill Thimmaga is not proved; it is highly doubtful if he was at all a party to it.

As regards the third group, namely: Proximate acts leading to the Killing of the deceased: It is not the case for the prosecution that the accused had had anything to do with the 3rd accused's going to the approver's village on the night of the alleged murder or that he formed party to take the deceased to - Kudlagudda Forest and to kill him there. Hence the evidence on this part of the case does not require to be considered in detail, as it does not connect or affect the first accused in any manner. The prosecution witnesses 2, 3, 4, 5 and 6 who speak to the facts touching this group do not in any way connect the first accused. Evidence of the 6th witness regarding the bullock is not at all - corroborated in any way. The Prosecution has not adduced any - evidence regarding the bullock, alleged to have been sent through this witness to the approver as his unsolicited price for the deed, by the seizure of the bullock in the custody of the approver and - its previous ownership by the 1st accused.

As a summing up of the above facts it is respectfully submitted for merciful consideration that it is not proved beyond all doubt that the first accused had any motive to kill the deceased, nor is it proved that the first accused was a party to any conspiracy as alleged, excepting the interested and uncorroborated testimony of the approver, and the retracted confession of the other accused, which cannot be considered as evidence against this accused; it is not also proved that the first accused did any act which led to the killing of Thimmaga.

The learned Sessions Judge has not considered the case of the accused independently of the case as against the other accused, and in consequence, erred in convicting him also of the offence along - with the other accused persons. The Honourable the Chief Court - has

has also erred in not deciding his case upon its own merits without being influenced by its view of the evidence as against the other accused. Under any circumstance a sentence of death passed on this accused also, without any differentiation between the guilt of the accused, if any, and, that of the other accused, is extremely severe.

Your humble memorialist begs to submit that he is a poor raiyat living in a far off village in Molakalmuru Taluq paying an assessment of over Rs.100/- to Government and a man of large family; he is an illiterate and ignorant villager not much in touch with the outside world; he would not have been brought to this unfortunate predicament had it not been to his misunderstanding with the Patel (P.W.8) who has got invalved this accused with others, through the mouth of his own creature the approver.

Your humble memorialist therefore most respectfully prays that you may be pleased to place his unfortunate case before His Highness the Maharaja for a merciful consideration and to acquit him of the charge.

Should he be not so unfortunate as to have a merciful reversal of his conviction the sentence of death passed on him may be at least commuted to any other sentence.

And in duty bound, your humble memorialist shall ever pray

BANGALORE,
22nd Aug.18.

(X) Signature =
Mark of Prisoner No. 2942

Head Jailor.
24/8/18 D.C. Jail.

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Criminal Appeal No. 63 of 1917—18.

Criminal Referred Case No. 8 of 1917—18.

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When a Sessions Judge [illegible] Conclusion that the Confession must be taken the Voluntary & true because there was no evidence of ill-treatment of the Police and the Confession had been repeated before the Committing Magistrate, nearly a month after they had been made and recorded the Court said, "there is undoubtedly a great deal of force in that reasoning, but when a confession is retracted, it is the duty of a Court called on to act with [illegible] especially in a Case of Murder to [illegible] enquiries into all the material points & surrounding Circumstances and satisfy itself that the Confession Cannot be true.

I. Bom: L. Rep. Vol. pp. 441

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Complainant.	Vs.	Accused.
Government.		1. Devappa.
		2. Thimmakka.
		3. Thimmiah.

I, T. V. A. Iswaran, 1st Class Magistrate of Chitaldrug Sub-Division, hereby charge you Devappa and Thimmakka, as follows :—

That Thimmia of Vitlapur on the 22nd of August 1917 at Kudlu Gudda near Oblapur, Molakalmuru Taluk, committed the offence of murder and that you and (Devappa and Thimmakka), at Vitlapur, abetted the said Thimmia in the commission of the said offence of murder which was committed in consequence of your abetment, and thereby committed an offence punishable under Sections 109 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

And I hereby direct that you, the said Devappa and Thimmakka be tried on the said charge by the Court of Session of the Shimoga Division.

Dated the 8th day of October 1917.

(Signed) T. V. A. Iswaran,

1st Class Magistrate,

Chitaldrug Sub-Division.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Complainant.	Vs.	Accused.
Government.		1. Devappa.
		2. Thimmakka.
		3. Thimmiah.

I, T. V. A. Iswaran, 1st Class Magistrate of Chitaldoorg Sub-Division, hereby charge you Thimmaiya as follows :—

That you the said Thimmiah, on or about the 22nd day of August 1917, at Kudlu Gudda, near Oblapur, Molakalmuru Taluk, committed the murder of Thimmaga of Vitlapur by intentionally or knowingly causing his death and thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Sessions.

And I hereby direct that you, the said Thimmaiya be tried on the said charge by the Court of Session of Shimoga Division.

Dated the 8th day of October 1917.

(Signed) T. V· A. Iswaran,

1st Class Magistrate,

Chitaldroog Sub-Division.

IN THE COURT OF SESSIONS, SHIMOGA DIVISION:

Chitaldrug Sessions Case No. 6 of 1917—18.

Complainant. Vs. Accused.

Government. 1. Devappa.
2. Thimmakka.
3. Thimmappa.

24—10—17.

Commitment report received on 22—10—17.
Posted to 9—11—17 for trial.

(Initialled) B. N.,
Sessions Judge.

9—11—17.

For reasons mentioned in the order sheet in Chitaldroog Sessions Case No. 5 of 1917—18 adjourned to 23—11—17.

(Initialled) B. N.,
Sessions Judge.

23—11—17.

The Public Prosecutor in person.

The accused by Mr. Ananta Chetty.

Sessions Case No. 5 is still pending. I am engaged in its trial.

Adjourned to 26—11—17.

(Initialled) B. N.

26—11—17.

The Public Prosecutor in person.

The accused in person.

Sessions Case No. 5 is still pending.

Adjourned to 27—11—17.

(Initialled) B. N.

27—11—17.

The case is adjourned to 28—11—17 as the Sessions Case No. 5 is still pending.

(Initialled) B. N.

———

28—11—17.

The Public Prosecutor in person. The accused by Mr. M. Ananta Chetty. The charge under Section 302 against 3rd prisoner and charges under Section 302 read with 109 I. P. C. against 1 and 2 prisoners are read out and explained to the prisoners.

They all plead not guilty. The Public Prosecutor has opened the case.

It is 6 p. m. now. The Court was engaged in writing judgment in Sessions Case No. 5 till 5-30 p. m.

Adjourned to 29—11—17.

(Initialled) B. N.

———

29—11—1917.

Parties as before.

The Public Prosecutor continued to open the case and examined the approver.

It is 6 p. m. now.

Further trial is adjourned to 30—11—17.

(Initialled) B. N.

30—11—17.

Parties as before.

The approver is cross-examined and re-examined.

The Public Prosecutor wishes to dispense with witnesses Gangappa, Mudiappa, Thippiga, Gangiah, Dathiappa, Basappa, Sannavanu alias Thippia. He tenders them for cross-examination. Mr. Ananta Chetty wants to cross-examine Mudiappa and Gangia only. The other witnesses are discharged.

3 more witnesses examined.

It is 6 p. m. now.

Adjourned to 1—12—17.

(Initialled) B. N.

1—12—17.

Parties as before.

8 more witnesses examined.

It is now 6-20 p. m.

Further trial adjourned to 3—12—17 at 8 a. m. at the request of the assessors.

They say Monday is a Shandy day.

(Initialled) B. N.

3—12—17.

Parties as before.

4 more witnesses examined. 3 witnesses were cross-examined.

The Court is sitting from 8 to 12 noon.

Adjourned to 2 p. m. to-day.

(Initialled) B. N.

At 2-30 p. m. the Court met.

Parties as before.

The accused are examined and their statements before the Committing Magistrate and their confessions are admitted in evidence.

The prosecution closed the case.

Mr. Ananta Chetty wishes to examine Thammappa. But the 1st accused has stated that he wishes to examine Thippia and Basappa. It is difficult to understand this procedure.

The 1st accused says that he does not know what Thammappa says. Mr. Ananta Chetty says that this person would say that he was not present when the 1st accused beat the deceased with a shoe and that there was ill-feeling between the 1st accused and the deceased. The Public Prosecutor says that this is a procedure not warranted. The Advocate says that he has instructions from the wife of 1st accused to examine Thammappa.

ORDER.

The 1st accused and the other accused do not want Thammappa to be examined, and they mentioned only two witnesses to be examined, of which Thammappa is not one. But their Advocate wants to examine him on the ground that the wife of 1st accused has instructed him to do so. It is difficult to say how an Advocate can take upon himself the responsibility to examine a witness whom his clients do not want to be examined. As he acts on behalf of the accused only and not on behalf of 1st accused's wife, I cannot allow him to do. To admit such evidence is fraught with danger for obvious reasons.

(Signed) B. Nagappa.

The 1st accused has examined Basappa. He and his Advocate does not want to examine Thippia or any more witnesses. The accused close their case.

Here left thumb mark of Devappa, 1st accused.

(Signed) M. Ananta Chetty.

After the Public Prosecutor and Mr. Ananta Chetty addressed the Court and the assessors, the Court summoned up the case, both for the prosecution and on behalf of the accused.

The assessors are unanimously of opinion that all the accused are guilty of the offences mentioned in the charges against them.

For judgment to 4—12—17.

It is now 6-20 p. m.

(Initialled) B. N.

4—12—17.

Judgment not ready.

Adjourned to 5—12—17.

(Initialled) B. N.

5—12—17.

The accused in person.

Judgment passed.

(Initialled) B. N.

NI THE COURT OF SESSIONS, SHIMOGA DIVISION.

Dated, Chitaldrug Camp the 5th December 1917.

Before B. Nagappa, Esquire, Barrister-at-law, Sessions Judge.

Chitaldrug Sessions Case No. 6 of 1917—18.

Complainant.	*Vs.*	Accused.
Government of Mysore.		1. Devappa. 2. Thimmakka. 3. Thimmappa.

Judgment.

The 1st and 2nd prisoners are indicted for the conspiracy to murder a young and stalwart person named Thimmaga, aged about 25 years, and the 3rd prisoner is indicted for the murder of Thimmaga in pursuance of the conspiracy on the night of Wednesday the 22nd August 1917, in the forest of Kudligudda in the vicinity of Bommakkanahalli in Molakalmuru Taluk.

2. The story of the prosecution according to the principal witness the approver and other witnesses, may briefly be stated as follows :—

The 1st prisoner is the maternal uncle of the 3rd prisoner and lived jointly with the latter, his sister and his brother in one house. The 2nd prisoner is the mother-in-law of 3rd prisoner and lived in the house of 1st prisoner as his kept mistress.

Motive.

3. The deceased Thimmaga is a Bedar residing in the same village as 1st prisoner and was keeping the widowed sister of 3rd prisoner. This woman is the sister of 1st prisoner's wife, for he had married his own sister's daughter, i. e., the elder sister of 3rd prisoner. The

deceased was insulted by Devappa the 1st prisoner when he came and sat near a Lingayet on the occasion of Gangiah playing on the violin in the house of Devappa. On the same night there was a theft of pulleys, etc., in the garden of Devappa. Devappa took the deceased to his field and beat him with a sandal in the presence of his uncle Nagappa and others. He further preferred a complaint exhibit P2 against the deceased to the Police and sent it through the patel on July 16, 1917. Nothing seems to have been done in the matter. The deceased being very much irritated at the treatment received at the hands of Devappa, began to vilify him. On many an occasion the deceased under the influence of liquor gave vent to his feelings openly in the following manner. 'Devappa has kept Thimmakka who is a degraded woman for she had illicit intercourse with a Madigar, that he has kept Devappa's own sister-in-law, that in consequence he was in no way inferior to Devappa, that Devappa had beaten him with a sandal before his uncle and that he would in retaliation beat Devappa with a sandal in a Public Street.'

This open slander was naturally galling to Devappa and his paramour Thimmakka. They are comparatively in a higher status in society than the deceased and in consequence their feelings were heightened by the vilifications by a person of a lowest class. They were powerless to prevent this state of things owing to the desperate character of the deceased who was not amenable to any advice given by the patel and his uncle.

CONSPIRACY.

4. Devappa whose amour propre was wounded and who had a just cause against the deceased for seducing his own sister-in-law resolved to murder the deceased. He was, however, powerless to effect his plan without the aid of any one. He was naturally apprehensive. But his paramour Thimmakka was of a different mould. She is a woman possessing wonderful resources and tenacity of purpose to carry out her will. She was under circumstances of provocation, capable of cherishing cold malignity savage, continued unfeeling brutality of disposition and of contrivance, deception and concealment. When she found her paramour unable to cope with the situation she expressed herself before Dev-

appa and his bosom friend Dodda Thimmia "Though you are a man you cannot deal with him; and you will see what a female can do."

That this was not a bravado was proved by her subsequent acts. She befriended the deceased and was often giving him betel leaves, etc. She proved to him a friend and inveigled her victim into her confidence. She invented a story that Devappa was refusing to allow her son-in-law the 3rd prisoner his proper share in the family property, that he is a bad character and will not allow the deceased to have free access to his sister-in-law, that unless he is poisoned the 3rd prisoner will not get his share and the deceased will not be allowed to have free access to his sister-in-law and that she will arrange to get poison from her brother. The deceased fell in with her scheme and believed the story to be true. Thimmakka and Devappa talked about this plan. They arranged to bring round the approver Thippayya the younger brother of Thimmakka who lived at Oblapur about 4 or 5 miles from Vitlapur where Devappa resided.

APPROVER'S PART.

5. The story is next taken up by the approver Thippia. On Monday August 20, 1917 he went to Vitlapur to offer his condolences to his elder sister Galamma and her husband Thimmia on their bereavement caused by the death of Thimmia's mother. After seeing Thimmia he was returning when he was called by Thimmakka and Devappa who were seated on the pial of their old house. He went and sat by their side. After some conversation Devappa and Thimmakka gently broached the subject of their conspiracy after extracting from him a promise not to reveal to others what they were going to say to him. They narrated to him the whole story relating to the incidents that had happened to their indignity and disgrace caused by the deceased and their design. At first he was reluctant to fall in with their view and told them that he had no time then to discuss the subject with them. He went away to see his sister Galamma who was in her field. After he finished his work, he was returning to his village, in the evening when he was met by his sister Thimmakka and Devappa outside the village

on the road leading to his village. They took him to a field closeby and engaged him in conversation. They requested him to help them. When he showed a disinclination to interfere in this matter, his sister appealed to his sense of honour saying that the deceased had brought disgrace on their family by vilifying her and that he as a brother should evince interest and sympathy in her helpless condition. This appeal from her sister had its natural effect coupled with a promise made by Devappa to give him a bullock or rupees 50 for his help. He seems to have been half gained over to their cause and told them to come to Devasamudra Shandy on the next day to meet him and discuss the *modus operandi* as it was late on that day to go to his village. He went away to his village.

On August 21, 1917 both Devappa and Thimmakka went to Devasamudra Shandy and met Thippia. They met on the pial of the school which was closed and discussed the matter more fully. It was finally arranged that the deceased should be sent with the 3rd prisoner Thimmappa to Thippia's village on that night on the pretext of bringing poison from him, and that both Thimmia and Thippia should murder the deceased. Unfortunately for the conspirators there was heavy rain on Tuesday night. They were unable to send the 3rd prisoner and the deceased on this errand. But on the night of 22nd August last, Thimmakka sent her son-in law and the deceased to Thippia's village to bring poison. Thimmia took the deceased to Oblapur and left him near the Kapila well of Thippia and went to Thippia's house and informed him about it. Thippia's wife and children had gone on that day to Rampur to witness the festival of Agnikonda. So he was alone in the house. He asked Thimmia to take a hatchet that was in his house. He took it. They talked about their plan of murdering the deceased. Thippia informed him that he would take them in a jungle on the pretext of getting poison from a man at Konapur and that he should kill him when he gives a signal.

They went to the well and met the deceased. Thippia told him that as they did not come on the previous night the man who was to give poison and who was waiting for them, went away to Konapur and that they should go with him to that village.

Accordingly all the three persons started—Thippia going in advance, the deceased and Thimmia following him in order. Thippia took them through a forest saying that the dogs watching the sheep in the village closeby would raise alarm. Thippia gave a signal at a convenient place by asking Thimmia to give chunam to him. Finding that his signal was not heeded he sat down to ease himself and then went to Thimmia for tobacco and squeezed his hand by way of signal to commit the foul deed. Thimmia took the hint and gave two cuts to the deceased's neck from behind with a hatchet (article No. 1). The deceased cried out 'Aiyo! Aiyo!!,' staggered and fell down. Then Thimmia dealt some more blows with a hatchet. Life became extinct. Thimmia told his companion that he was asked by Devappa and Thimmakka to remove the head from the trunk and hide it. Thippia asked him to sever the head from the trunk. Thimmia tried to do so, but he was unable to do so. Then both left the body in the jungle and returned to Oblapur after washing the hatchet in the channel closeby. Thimmia was unable to go alone to his village and asked Thippia to follow him. Thippia pleaded excuse saying that there was none in his house and that he would send his servant Hanumantha to accompany him. Thippia went to Begar Batti and woke up his servant Hanumantha. He told him to go with Thimmia to Vitlapur and to bring a bullock hich Devappa would give in the morning. Hanumantha followed Thimmia to Vitlapur on that night. They reached Vitlapur at about 1st cock-crow. Hanumantha slept till the morning near the house of Devappa. On the next morning Devappa met him and asked him why he went there. He informed him of what his master told him. Devappa then gave him a bullock. Hanumantha brought it and delivered the same to his master. Some 3 or 4 days after Thippia left his village to buy a bullock. He was unable to find one. He went to Bellary and met his sister Thimmakka there. Thimmakka had gone there to consult a merchant who was the friend of Devappa and her late husband about the case. She informed her brother that warrants were out for their arrest and that Devappa and Thimmia were in Police custody and had confessed everything. Then she and her brother thought it best under the circumstances to go and surrender themselves before the Police to avoid trouble. They accordingly came to Molakalmuru on 6th September 1917 and surrendered

themselves before the Amildar and Police Inspector and confessed everything. The Police took them to Challakere and had their confessions recorded, before the Amildar Magistrate on 8th September 1917.

THE INQUEST AND ARREST OF 1ST AND 3RD PRISONERS.

6. On the morning of 23rd August last, Mia Sabi the Patel of Bommakkanahalli sent a report exhibit P4 to the Police Station at Rampur regarding the finding of a corpse in the jungle. No sooner had the report reached the Police Inspector Mr. Laxmia than he gave F. I. R. and proceeded to the spot on the same day with a photographer. He arranged to send information to different neighbouring villages with a view to find out the relatives of the deceased. Mariappa the father and Nagappa the uncle of the deceased who were searching for him, hurried to the spot on 24th August. They identified the body. An inquest was held on that day. At the inquest it was known through the father and uncle that there was considerable enmity between the deceased and Devappa. The autopsy was held at about 4 p.m., on that day on the spot by the Sub-Assistant Surgeon. The Police Inspector entered upon the investigation and arrested Devappa on 28th August. Finding that other prisoners were absconding, he took proper precautions for their arrest. Thimmappa was arrested on 1st September last and he made a confession before the Amildar Magistrate of Challakere on 4th August. On 6th September, both Thippiah and Thimmakka surrendered themselves before the Police at Molakalmuru and confessed to their guilt before the Amildar Magistrate at Challakere on 8th September.

On 1st September Thimmappa gave information that led to the finding of blood stains on Panchay Art. No. 2 worn by him after it was washed. On 10th September Thippiah got Art. No. 1 hatchet produced.

The charge sheet was placed before a Magistrate with the result that the case is committed to this Court for trial.

7. The prisoners plead not guilty. The prisoners Nos. 2 and 3 say that their confessions were enforced ones owing to the threats of ill-treatment held out by the Police. The 3rd prisoner adds that the approver was giving evidence against them owing to his enmity towards his sister Thimmakka who is keeping Devappa.

8. The testimony of Mr. Nanjundiah, Sub-Assistant Surgeon Miya Sab, Nagappa, Thimmakka and Thippia the approver, conclusively proves the death of Thimmaga on the night of Wednesday the 22nd August 1917 and the fact of his corpse lying in a jungle some miles away from his village of Vitlapur in a pool of blood and the presence of 10 severe cuts on both sides of the neck, shoulder and wrist. These facts are not repudiated.

9. The material question for determination is whether the prisoners are the authors of this murder. The proofs in support of the charge consists of, first, the testimony of witnesses Nos. 1, 8, 12, 13 and 14 who depose to the ill-will that was existing between the deceased and the prisoners, secondly the testimony of the principal witness Thippia the approver who speaks to the conspiracy and who is naturally the direct witness for murder, thirdly the testimony of Hanumantha P. W. 2, Basakka P. W. 3, who saw the deceased being taken by the 3rd prisoner on the evening of 22nd August last, towards his home, Doddabasappa and Thippia P. W. 5 who saw the 3rd prisoner coming to Oblapur and taking Thippia the approver with him on that night and of Hanumantha P. W. 6, the servant of approver who accompanied the 3rd prisoner to Vitlapur after the murder, fourthly the testimony of Channabasappa P. W. 10 and Mr. Laxmia P. W. 16 who speak to the production of blood stained panchay by 3rd prisoner and of Thippia P. W. 1, Hanumantha P. W. 6 and Mr. Laxmia to prove the production of hatchet Art. No. 1 and lastly the confession of the prisoners Nos. 2 and 3 made immediately after their arrest.

It thus becomes necessary to travel through the facts though not in full detail as they are fully set out, pursuing above the order in which they occurred and the outline already given.

10. As to the beating of the deceased with a sandal by the 1st prisoner there is the direct evidence

of Nagappa the uncle of the deceased. Hiradalappa the Patel of Vitlapur speaks to the fact of the deceased's admission about this beating and of his vilification as set out above. Nagappa corroborates him as to the fact of deceased vilifying the prisoners. Doddathimmia speaks to the same effect as Hiradalappa. Thippia the approver deposes to the admission made by the 1st and 2nd prisoners before him regarding the vilification by the deceased and his threat to retaliate. The documentary evidence afforded by the complaint exhibit P 2 preferred by the 1st prisoner on 16th July 1917 fully corroborates the view that there was enmity between the deceased and Devappa. Further the testimony of Thimmakka the mother of the deceased coupled with the admission made by the deceased before the witnesses referred to above shews that the deceased was intriguing with a young widow Thimmakka, the sister of the 3rd prisoner and of the 3rd prisoner's wife. There is no reason to discredit the testimony of these witnesses who have no motive to depose falsely and whose evidence has not been impeached in cross-examination. The general result of the evidence discussed above fully establishes the motive alleged by the prosecution.

11. The principal witness to the direct murder is the approver Thippaiya. Such must of necessity for the most part be the sort of evidence in cases where the offence of murder is committed under circumstances incapable of extrinsic confirmation. He has deposed in detail to all the circumstances set about in the former portion of this judgment. He has well stood the test of a searching and inordinate cross-examination.

The only discrepancy which the Advocate for the prisoners was able to shew consists of his former statements contained in exhibits D1 and D2.

Exhibit D 1 related to the time when the approver first visited Vitlapur. He mentions therein that he went 15 days before the murder. Before this Court he says that he went 13 days before the murder. I have carefully perused his statement before the lower Court and find that in the subsequent passages he makes it clear that he went to Vitlapur on a Monday before the murder, which, according to him, took place on Wednesday night. The approver explains this discrepancy by saying that what he meant was

that he went to Vitlapur 15 days after the death of Thimmia's mother. Having regard to the fact that the villagers have no idea of time, I cannot attach any importance to this trivial discrepancy. Exhibit D 2 related to the place where the poison is to be purchased. It mentions the name of Konapur instead of Oblapur The approver says that Konapur was mentioned by mistake instead of Oblapur. By the context it is clear that the approver could not have meant Konapur. There is thus no reason to discard his explanation. Moreover I am of opinion that this trivial discrepancy will not lead any one to discredit the approver's testimony.

The impression left in my mind as well as in the minds of the assessors is favourable to the generel truth of the story narrated in detail by the approver.

His evidence is confirmed upon facts capable of corroboration as will be shewn presently and becomes entitled to credit even upon circumstances incapable of extrinsic confirmation. He is the uterine brother of Thimmakka the 2nd prisoner. He has made a clear and detailed confession exhibit P1 before a Magistrate on 8th September 1917, i. e., two days after he surrendered himself. I have compared his confession with his present statement and find that there is no variation in the main features of the version given by him. His close relationship with the 2nd prisoner renders it highly probable that he was taken into the confidence of the prisoners and used him as a tool to carry out their scheme in the manner stated by him. Being an amateur Criminal and being well aware that he could not get off undetected as sufficient evidence of his guilt had been discovered by the Police, he was naturally in despair and glad to purchase immediate ease by making a confession. When the authorities found him speaking the truth, he was tendered pardon,if I may say so wisely and examined him as a witness. He has in my judgment, deposed truthfully to all facts within his knowledge.

11. I shall now proceed to consider the evidence that tends to corroborate the testimony of the approver.

Hanumantha who is a young lad of about 13 years of age speaks to the fact of seeing the deceased taken by the 3rd prisoner at about supper time on Wednesday the 22nd August last from Chavadi

towards his house. He is corroborated by Basakka a washerwoman who saw the deceased and the 3rd prisoner coming from Chavadi and going towards the latter's house. Basakka is the person that washes the clothes of the prisoners. Her inclination must naturally be to help them. But she has stuck to the truth and given out this fact on Thursday following, to the father of the deceased when he was searching for his son in the village on that day. Both these persons are simple village folks and have given evidence in a straightforward manner. They have given their statements consistently before the Police, Committing Magistrate and before this Court. These were examined on August 26th 1917, i. e., long before the arrest of any of the prisoners by the Police. Both Thippia (P. W. 5) and Dodda Basappa (P. W. 4) of Oblapur depose to the fact of their being on duty to watch their village on the night of Wednesday (22nd August last) and of their observing the 3rd prisoner entering the village gate where the Chavadi is and where these two persons were seated chewing betel leaves, before midnight or so and of their seeing Thippia the 3rd prisoner going out of the village sometime after the 3rd prisoner entered the village. They say that they observed these persons passing in front of the Chavadi at a distance of about 2 or 3 feet from the place where they were seated. Thippia the approver says that he observed some one coughing in the Chavadi. These witnesses were examined by the Police Inspector on August 29, i. e., just after the arrest of 1st prisoner, presumably after some information furnished by the prisoner.

These are utter strangers to the prisoners and are shewn to have no motive whatsoever to depose falsely. The reasons given for crediting Hanumantha and Basakka, equally apply to the case of these persons.

Hanumantha P.W. 6 the servant of the approver, deposes to the fact of his accompanying the 3rd prisoner to his village of Vitlapur on the night of Wednesday and to the fact of his bringing a bullock from Devappa as ordered by his master. His evidence is not impugned in any way. He was examined by the Police Inspector on August 29, long before his master surrendered

himself and confessed before the Amildar Magistrate. He has given consistent statements throughout. These considerations lead me to credit the testimony of Hanumantha P. W. 2, Basakka P. W. 3, Dodda Vasappa, Thippia, P. W. 5 and Hanumantha P. W. 6.

The testimony goes far to corroborate and give credit to the evidence of approver Thippia.

12. There is another significant fact which, in my opinion, materially corroborates the evidence of the approver. It will be remembered that the 3rd prisoner was according to the approver the person that dealt the fatal blows to the deceased with the hatchet article No. 1 and that the hatchet was washed immediately after the occurrence but not the blood stained clothes of the 3rd prisoner. On 1st September last the 3rd prisoner was arrested and immediately after his arrest, he gave information which led to the discovery of blood stains in the Panchay article No. 2 that he was wearing at the time. Article No. 2 was found washed. Yet it contained blood stains. The testimony of Channabasappa and Mr. Laxmia, shews clearly that the Panchay contained blood stains and that this fact was discovered in consequence of the information furnished by the 3rd prisoner. Exhibit P 6 the Chemical Examiner's Certificate confirms the existence of blood stains on this Panchay. This circumstance then confirms to a material extent the testimony of the approver. The present explanation by the 3rd prisoner that the blood-stains were due to itch which he was suffering from is very ingenious and no doubt got up for the occasion. It cannot be entertained as satisfactory. For these reasons I have no hesitation whatever in holding that the approver's testimony corroborated as it is in material particulars can safely be acted upon.

13. The matter however does not rest here. There are the confessions of prisoners Nos. 2 and 3. I shall briefly consider the circumstances under which the confessions were made and subsequently retracted.

There is ample evidence on the record to shew that prisoners Nos. 2, 3 and the approver had absconded and were not to be found in their village after

the murder. In fact both the approver and 2nd prisoner admit that they were absent from their village immediately after the murder. The 3rd prisoner was arrested on September 1, 1917 and the 2nd prisoner and approver her brother surrendered themselves before the Police on September 6, 1917. The 3rd prisoner was arrested at Molakalmuru. On the day that he was arrested he gave information that led to the discovery of blood stains in his Panchay and he was ready to make a confession before a Magistrate. (Vide the disinterested testimony of Channabasappa P. W. 10, who is a very respectable person engaged in extensive trade.) He was taken on 1st September last to the Amildar Magistrate of Challakere by the Police Daffedar. His confession was recorded on September 4, 1917. It was only before the Committing Magistrate that he has retracted after he has engaged a Lawyer to defend him. The 2nd prisoner surrendered before the Police at Molakalmuru on 6th September. She was ready to confess then. She was taken along with her brother the approver by Police Daffedar to Challakere on the same day. She made the confession on 8th September last. Thus it is clear that the Police Inspector who investigated this case had not kept the prisoners in his custody some days before the prisoners made their confessions. From the nature of the questions put by the Magistrate and answers given, it is clear that the Magistrate at Challakere has taken pains to ascertain whether the prisoners were making genuine confessions or the confession of each prisoner was an enforced one caused by inducement, threat or promise and that after fully satisfying himself that the prisoners were desirous of making genuine and voluntary confessions, the Magistrate has recorded their statements as nearly as possible verbatim in the language of the prisoners.

The confessions of the prisoners Nos. 2 and 3 and of Thippia contain a full narrative of the prosecution story. They all substantially corroborate one another. The circumstance mentioned in them could not possibly have been invented by the Police. The 3rd prisoner goes so far to say that he did not make any confession before the Magistrate at Challakere, but when he was asked whether he was not taken before the Magistrate at Challakere, he states that he did not know what he stated before the Magistrate. He says that he was threatened by the Police and that

in consequence he made a confession according to their dictation. He does not allege any ill-treatment. The 2nd prisoner says that she was arrested in the village of Vitlapur and taken to Rampur and that she was threatened by the Police Daffedar and Jamadar to confess to her guilt ; that she was taken thereafter to Molakalmuru and thence to Challakere. She is not specific when she was arrested and taken to Rampur Station. She says that there are no witnesses that depose to these facts.

They state that they did not complain to any authority though they had seen their Lawyer in Lock-up about a month and a half ago. They have retracted after they have engaged a Lawyer. Under these circumstances I most anxiously enquired into all the material points and surrounding circumstances connected with the making of confessions and with their subsequent retractions to satisfy myself fully whether it was more probable that the original confessions or the statements retracting them were true.

Having regard to all the circumstances connected with the making of confessions and their subsequent retractions, I have clearly come to the conclusion that the confessions cannot but be true.

My reasons are shortly these :—

In the first place it is clear from what has been already stated in this judgment that all the witnesses who corroborate the approver and who have deposed to the motive were examined before any confession was recorded, that there was material evidence collected by the Police. The 3rd prisoner might have been well aware that Devappa had given information to the Police leading to the discovery of the important evidence. He might have been aware that he could not get off undetected ; consequently he being in despair was glad to purchase immediate ease by making a confession.

In the second place no suggestion is made about bodily ill-treatment. Mere threat even if true is impossible to compel a person to confess to a crime of murder. In the third place the absence of bodily ill-treatment coupled with the shortness of time within which the confessions were made greatly increase the weight of these confessions. The full and com-

plete narration of the story contained in their confessions bear on the face of it the indicia of their being true.

The contact with other 'undertrials' less unsophisticated than themselves and the instinct of self preservation which asserts itself and induces the prisoners to determine to have a fight for liberty, have in my judgment, brought about the retraction of the genuine confessions.

These considerations lead me to hold that the confessions of the prisoners Nos. 2 and 3 are relevant and must be taken into consideration. They may be taken into consideration even against the co-accused Devappa under Section 30 of the Evidence Act. (See 29 All. 434).

The result of the discussion of the evidence on record is that the approver's evidence and the retracted confessions are found to have been substantially corroborated in material particulars. I have therefore no hesitation in pronouncing the prisoners guilty of the offences contained in the charges.

Concurring with the unanimous opinion of the assessors the Court finds Thimmappa the 3rd prisoner guilty of murder of Thimmaga (an offence punishable under Section 302 I. P. C), Devappa the 1st prisoner and Thimmakka the 2nd prisoner guilty of conspiracy to murder, i. e., of abetment to murder Thimmaga (an offence punishable under Section 302 I. P. C. read with Section 109 I. P. C.) The murder is committed in cold blood and marked brutality. The prisoners Nos. 1 and 2 inveigled their victim into their confidence and then got him murdered. No doubt the deceased might have been a desperate character and have kept the sister of 3rd prisoner. This circumstance is not sufficient to mitigate the dastardly crime committed by contrivance, deception and concealment. These prisoners are in my judgment execrable beings. To pass a lighter sentence on them would be misplaced clemency.

The Court, therefore, sentences each of the prisoners, Devappa, Thimmakka and Thimmappa to be **hanged by the neck until he or she is dead.** This

sentence is subject to confirmation by the Chief Court.

The approver Thippia is directed to be released from custody. The articles produced would be destroyed after the appeal is disposed of.

I shall be failing in my duty if I omit to mention the promptitude with which the Police Inspector Mr. Laxmia has investigated this case and brought the offenders to take their trial before this Court. He has shewn commendable skill intelligence in his investigation which is thorough.

Pronounced in open Court.

(Signed) B. Nagappa,
Sessions Judge.

5th December 1917.

Chitaldrug Camp.

Note.—The prisoners are informed that they should appeal within 7 days.

(Signed) B. Nagappa.

5—12—17.

CHITALDRUG SESSIONS CASE No. 6 of 1917—18.

Witnesses examined for the prosecution :—

1. Thippia, 2. Hanumantha, 3 Basakka, 4. Dodda Basappa, 5. Thippia, 6. Hanumantha, 7. Patel Thippanna, 8. Hiradalappa, 9. Mr. Nanjundiah, 10. Channabasappa, 11. Miya Sabi, 12. Thimmakka, 13. Nagappa, 14. Dodda Thimmia, 15. Ibrahim, 16. Mr. Laxmia, Police Inspector.

Witnesses tendered for cross examination :-

1. Kudiappa, 2. Gangiah 3. Giddannagowda.

Exhibits filed for the prosecution :—

P/1.—Confessions statement of approver.

P/2.—Report of Hiradalappa about loss of pulleys to Police, dated 16—7—1917.

P/3.—Post Mortem Certificate.

P/4.—Patel Miya Sabi's Report about dead body lying in the field.

P/5 (a) and P/5(b).—Photos of the deceased.

P/6.—Chemical Examiner's Certificate about stains on Panche of the 3rd accused.

P/7.—Sketch of Vitlapur.

P/8.—Sketch of Oblapur.

P/9.—Sketch of the scene of occurrence.

P/10.—Statement of 1st accused before the lower Court.

P/11.—Statement of 2nd accused before the lower Court.

P/12.—Confession of 2nd accused before Taluk Magistrate, Challakere.

P/13.—Statement of 3rd accused before the lower Court.

P/14.—Confession of 3rd accused before the Taluk Magistrate at Challakere.

Witnesses examined for the defence :—

1. Basappa.

Exhibits filed for the defence :—

D/1.—Portion of deposition of approver before the lower Court.

D/2.—Do do another portion.

Articles produced in the case :—

1. Hatchet.
2. Panche.

Deposition of Thippia, 1st witness for the prosecution, taken on affirmation on this 30th day of November 1917 —

I know the deceased. The 2nd accused is my uterine sister. She was keeping the 1st prisoner for the last one or two years. She was married to Kivadu Basappa of Vodi village in Bellary District. She was his third wife. Her husband was about 50 years of age when he married my sister. K. Basappa died about 2 years ago. The 2nd accused has a daughter aged 14 years and a son aged 10–12 years She has given her daughter in marriage to the 3rd accused She and her children are brought up by the 1st accused. The 3rd accused is the sister's son of 1st accused. The 1st accused has married 3rd accused's elder sister. The father of 3rd accused was the manavaltana son-in-law and was living with his family in 1st accused's house. The 3rd accused and his brother and sisters are all living together in 1st accused's house. The 3rd accused and his brother are the working members of the family of 1st accused. The 1st accused is the manager of the family. My sister the 2nd prisoner has given her husband's land for cultivation and she is residing in 1st accused's house. The 1st accused has two houses—one inside the fort and the other outside the fort. I have another elder sister named Galamma, residing at Vitlapur. Her husband's name is Mandi Thimmia. Thimmia's mother died about 13 days before the murder of Thimmaga. Three days before this murder I had been to Vitlapur to condole with my sister Galamma and her husband on their bereavement. I went and saw my brother-in-law Thimmia in his house and asked him where my sister had gone. He told me that she had gone to the garden. While I was going towards the garden to see my sister I met the 1st and 2nd accused who were seated on the pial

of their old house which is inside the fort. They called me in. I went and sat near them. My sister asked me when I arrived and how we were getting on. I answered that I arrived just then and that all were well at home. She then gave me betel leaves. While I was chewing the accused Nos. 1 and 2 told me that they had something to tell me and that they would divulge it to me in case I promised to fulfil it. I replied that if it was possible to comply with their demand I would do it. Then they said that it was possible for me to do it and that it must be done and that they would also help me. They further told me that it was a matter that should not be revealed to others. I promised to keep it a secret. I asked them what it was. Thereupon both Devappa(?) told me as follows :—

"Bedar Thimmappa is abusing and putting us to disgrace by publishing the news that the 2nd accused was keeping a Madigar and that I was keeping a woman of that character. He wishes to avenge the wrong done to him by me (i,e., beating him with a sandal) by openly beating me with a sandal. Bedar had kept Thimmakka the widowed sister of 3rd accused. He had stolen pulleys of the piccota well. I beat him with a sandal in the presence of his uncle. Hence there has been considerable enmity between him and me. He must be murdered. Nobody except you can help me in this matter." I replied that this was an ordinary work and that it would involve the ruin of my family if the matter is known or if any one had to see me doing it. My sister the 2nd prisoner then appealed to my sense of honor and told me that I had no sympathy with her when she was disgraced by a Bedar proclaiming openly that she had kept a Madigar and had become a degraded woman. I told her that I would go and see my elder sister Galamma first and then return and that we might afterwards discuss about the matter. I left them and went to Galamma. I saw her and spoke to her. While I was returning after finishing my work I met the accused Nos. 1 and 2, near the roadside outside the village. We three of us went on the roadside leading to Devasamudra for about few paces or so. We sat near a mound of earth (i.e, bund i.e., boundary mark) and talked about the same subject again. It is customary amongst us not to take food in any

one's house after speaking to those in mourning without taking a bath. As it was late on that evening and as I was in a hurry to go to my village to take a bath and to take supper I told them that I had no time then and that they might meet me at Devasamudra Shandi on following Tuesday. They consented to do so. Thereupon I left them and went to my village, which is about 3 or 4 miles from Vitlapur. On the following day I went after meals to Devasamudra Shandy expecting to meet them. The accused Nos. 1 and 2 had come there. After making purchases in the Shandy they asked me to go near a School Building. We accordingly went, and sat on the pial of the School. There were none on the pial. They broached the subject again. I told Devappa that it was a difficult affair and that I was alone not competent to execute the work. Devappa said that his son-in-law and himself would help me and that I should not be afraid of the consequences. Thereupon I consented to co-operate with them. They told me that tney would try to send the deceased Thimmaga to my village. I asked them how they would manage to do it. My sister Thimmakka told me that she would send him by some trick. She divulged her plan to me. She said as follows:—

"I am friendly with him. I am giving him betel leaves and money for drinking. I am aware of his criminal intimacy with Thimmavva, the sister of 3rd accused. I have told him that my son-in-law 3rd accused and 1st accused are not on good terms as the latter had refused to give a share in the family property to the former, that we are planning to poison the 1st accused and that in consequence my son-in-law would get his share and he would have easy access to his paramour Thimmavva". She told me that she would send Thimmaga on that night with her son-in-law the 3rd accused on the pretext of getting poison for me, that I might expect them near the piccota well in my garden. I told her that I would wait for them. We then dispersed. On Monday the 1st accused had promised to get me either a bullock or Rs. 50 for committing this deed. I returned to my village and went to the piccota well as arranged. As it was raining on that day they did not turn up. I went home; this was more than 3 months ago. On the following Wednesday my father-in-law came and took my wife and children to his village of Rampur to witness Agnikonda (Fire Worship). I took my supper and

slept on the pial of my house. Nobody was in my house on that night. While I was asleep the 3rd accused came and woke me up. I asked him why he came. He said that he had brought Thimmaga (now deceased) and that was seated near piccota well. He told me to go inside the house. We went inside. I asked him why he did not come on the previous night. I also told him that as nobody was in the house it was inconvenient for me to go with him on that night. He said that he was unable to come on the previous day owing to rain and that as the man has somehow been sent we must manage the business on that night. I asked him whether he had brought any instrument. He said that he had brought none. I asked him to take a hatchet which was lying in the cattle-shed. Article No. 1 is the hatchet now shown to me. I shewed it and picked it up. He concealed it under his Dupati (coarse cloth) which he was wearing. I locked the house. We then started. On our way we talked about the method to be adopted in executing the deed. I told him that I would take him and the Bedar to Konapur on the pretext of getting poison there, that I would go in advance, that the Bedar should follow me that he should follow the Bedar and that whenever the signal was given by me he should murder him. He consented to this proposal. We reached piccota well where Thimmaga was waiting for us. I asked him why he did not come on the previous day. He said that it was raining on that day and that they were sent to fetch the poison. I told him that the person who had to give poison was waiting on the previous day and that he has not gone to Konapur. I asked them to follow me. They followed me. I led the way. Bedar Thimmaga followed me and the 3rd accused was following him. We took the path leading to Konapur. I took there cross-country as there were dogs near Karu hatti, (i.e. sheep-fold). We went in a forest. I asked the 3rd accused to give me chunam and made signs to him at a place in the midst of a forest. The 3rd accused did not give the signal given to him. I went a little distance and sat down on the pretext of easing myself. I got up and asked the third accused to give me some tobacco, I squeezed his hand by way of giving him signal to murder Bedar Thimmaga and went forward. Soon afterwards the 3rd accused dealt a blow to the deceased with the hatchet article No. 1. The deceased cried out 'Aiyo, Aiyoappa.' I then turned back and

observed. The 3rd accused again dealt another blow with Article No. 1, when the deceased fell down. The 3rd accused dealt him two more blows with article No. 1. I then asked him to see whether his life was extinct. He bent down and looked at the Bedar and said that life was extinct. We then went a few paces when the 3rd accused told me that he was asked to conceal the head. We then turned back and went near the corpse. The 3rd accused attempted to sever the head from the trunk by giving three or four more blows. He told me that he could not sever. I told him to leave the body as it was and to follow me as I was shivering with fear. We then retraced our steps and approached a channel where the water was running. The 3rd accused washed the hatchet Article No. 1 and gave it to me. I too washed it as it might contain blood-stains. The 3rd accused washed his hands and feet. I gave back the hatchet to his hand. We came back to my village of Oblapur. The hatchet was kept in my house. I asked the 3rd accused to go to his village. He told me that it was dark and as he was afraid to go alone I should accompany him. I said that as there were none in my house I could not accompany. Thereupon he asked me to send my servant. I went and woke up my servant Hanumantha who was sleeping in his house at Begarhatti and brought him. I asked him to follow the 3rd accused to his village as he was to go alone and to bring a bullock which the 1st accused would give. They accordingly went, and I went and slept in my house.

At about 8 or 9 a. m. on Thursday following my servant brought a bullock. That bullock was in my house until I was arrested. That bullock belonged to 1st accused. He sent it through my servant. After two days I left my village with a view to buy a bullock to form the pair. As the price of bullocks was high I returned without buying through Bellary. At Bellary I met my sister the 2nd prisoner. She informed me that a warrant for our arrest had been issued. I told her that we would be beaten if we fell into the hands of the Police and that it would be better to surrender ourselves before a Magistrate. So we came to Molakalmuru and surrended ourselves before the Amildar and Inspector. This was on a Thursday, i. e., about 15 days after the murder. The Inspector questioned me about the murder. I made a statement before him regarding the offence on Thursday. This was

after the 2nd prisoner was taken by the Inspector. In the evening of that day I and my sister were taken to Challakere for recording our confessions. We reached Challakere at noon on Friday following. The Magistrate was not at Challakere on that day. We were kept at Challakere Lock-up on that night. On the following Saturday we were produced before the Amildar Magistrate. He recorded our confessions. Exhibit P1 is the confession I gave before the Magistrate. My sister's confession was recorded by the same Magistrate before my confession was recorded.

Cross-examined by Mr. Anantha Chetty.—My sister used to visit Vodu for 4 or 5 days at a time and return to Vitlapur and remain in 1st accused's house. I cannot say the exact age of Kivada Basappa at the time of his death. The 1st accused has a wife and two sons. He has one paid servant in his house. There is the son of Lakshmakka living in 1st accused's house. His is aged 12 years. Lakshmakka is also in 1st accused's house. The 2nd accused's daughter was married to 3rd accused more than 3 years ago. There is no time fixed to visit those in mourning. Generally we visit three or 10 days after the death. One has to pass in front of 1st accused's house to go to Galamma's house. As I was to visit those in mourning and as according to custom, I had to visit them first, I did not go to 1st accused's house. If they had not called me I would not have gone. I did not tell them that I would not go to their house. I had visited their house a month or so before Monday when I paid a visit to that village, to see Thimmia's mother who was ill then. On that occasion the accused Nos. 1 and 2 did not inform me about Bedar Thimmaga abusing them. It was about 3 p. m. when I was called by the accused Nos. 1 and 2. I left my village at 10 or 11 a. m., on Monday and reached Vitlapur at about 3 p. m. On my way I had been to Rampur. The 1st accused did not inform me the period during which the Bedar was keeping his niece. I do not know it personally. Nobody was present at the time of our conversation on the pial of 1st accused's house. There is a way in front of the pial. There are houses closeby 1st accused's house. I did not consent at first when they talked to me at the pial. The Bundh (mound of earth) was near the road. I did not

consent even when they talked to me near the boundary mark. They asked me to go to Devasamudra Shandy. I consented to do so. I am not aware of any dispute between the 1st and 3rd accused. The accused Nos. 1 and 2 told me on Monday on their pial that they would give a bullock. But I went away. It was at Devasamudra Shandy the arrangement to give me a bullock or rupees 50 was settled. It is they that proposed this arrangement. I did not ask. I did not go to Agnikonda as there was nobody in the house. It is performed once in 2, 3 or 10 or 12 years. I had gone to see it once about 2 or 3 years ago. Many persons from neighbouring villages visit Agnikonda. It is celebrated throughout the night. It was just before midnight the 3rd accused came to me on Wednesday. It was in my field that I spoke about the modus operandi. It was a cloudy night. There was no rain on that night. As the 3rd prisoner was wearing Dupati and could conceal the hatchet, I gave it to him after washing. I had no upper cloth. I was wearing only a coat and turban. I slept and got up in the morning as others do. I did not tell this to any one during the two days that I was in the village. I left my village either on Sunday or on Monday to purchase bullocks. I was out for 6 or 7 days and then went to Bellary on a Tuesday or so. On the night of Tuesday we left Bellary to Molakalmuru. We did not take the usual route fearing that we might be arrested. We went in forest road and reached Molakalmuru on Thursday. I surrendered to the Amildar when he and the Inspector were going to the Taluk Office. I saluted the Amildar and told him that a warrant had been issued against me owing to Devappa and Thimmia implicating me in the case of murder of Bedar Thimmappa. He told the Inspector to take me to the Taluk Office. Then the Inspector took me to his office. Jamadar and two constables took us to Challakere. We were put in Lock-up which was dark. I did not notice who were outside. I was outside when the 2nd prisoner was examined by the Magistrate. When the 2nd prisoner was making confession in the room of the Magistrate the Jamadar was seated on the verandah at a distance of about 12 yards from the room. My sister and myself used to be kept together except during nights while we were in Police custody. I made a confession before the Inspector an hour after we surrendered. I told him then about the hatchet. He did not ask me

to produce it on that day. It was produced on the day following we reached our village, from Challakere. It was with my servant. He had taken to the field for cutting fuel, etc. He was sent for. He produced it. It was in my house when he produced it. I have deposed as in exhibit D1.

Note.—It is 6 p. m. now. The cross-examination is reserved.

Read and admitted correct.

(Signed) B. Nagappa.

29—11—1917,

Camp, Chitaldroog

30—11—17.

Recalled, on solemn affirmation:—

Cross-examined by Mr. M. Anantha Chetty.—The accused Nos. 1 and 2 told me to help their son-in-law in murdering the deceased at Devasamudra Shandy. I referred to the bullock being brought in my confession. This was in pursuance of the promise which the 1st accused made. I have deposed as in exhibit D 2. I spoke to the 3rd accused both at home and near my field. As the 2nd prisoner told me about the slight misunderstanding between the 1st and 3rd prisoner regarding some share to be given, I have stated before the Committing Magistrate to the same effect. The 1st accused did not tell me to commit any crime previous to this. It was a Shandy day. The people were passing near the place where we were seated. The Police did not induce me to confess promising to let me off. The Committing Magistrate informed me in Court that he would tender pardon if I gave out the truth. He asked this before all the accused. I offered to give out the truth. Then I was tendered pardon. Before this no Policeman told me about it. I did not tell my servant to bring either rupees 50 or the bullock. There is no ill-feeling between me and the 1st accused in connection with the 2nd prisoner remaining in his house. I know how many bullocks the 1st

accused has, but I do not know the details of other cattle that he possesses.

Re-examined.—Lakshmakka referred to above is one of the sisters of 3rd accused. When we were talking about the matter nobody had come either near the pial of 1st accused's house or near the pial of the school-house. People were walking about in the Shandy. What I meant when I stated 15 days in exhibit D1 is that Thimmia's mother died 15 days prior to the murder. I have stated before the Committing Magistrate that I went to Vitlapur to see my sister Galamma on a Monday previous to the murder of Thimma which took place on Wednesday following. The accused Nos. 1 and 2 told me that they would send the deceased to my village and not to Konapur. What is stated in exhibit D2 is a mistake. It ought to be my village instead of Konapur. My sister the 2nd prisoner told me about the ill-feeling at Devasamudra Shandy.

By the Court:—I and the 3rd prisoner passed through the Chavadi, in our village when we went to my garden to meet the deceased. There was no light in the Chavadi. It was a cloudy night. I did not recognize the people who were in the Chavadi but I heard some one in the Chavadi coughing. I pay an assessment of rupees 60 or more. I have debts to the extent of rupees 600 or 700. About more than 10 years ago the people of our community had complained to the Swami of Parvata Mutt regarding the 2nd accused having an illicit intercourse with a Begar or Madiga. On this complaint all the members of our house were ex-communicated. Then the Swami came and held an enquiry. He found fault with us. He purified us. Then the 2nd accused was sent to her husband's house. She had one daughter aged about 1 year then. The same daughter is now married to 3rd accused. She is aged about 14 years now. It is my mother that brought the Swami and arranged all this. My father was dead then. The witness Doddathimmia of Vitlapur was friendly with the 1st accused. He was trading jointly with 1st accused at Bellary. I had known that my sister the 2nd accused was keeping the 1st accused. I kept quiet for I was powerless to prevent her from doing this act. She was committing a bad deed. The 1st accused is educating the son of 2nd accused. Her lands at Vodu

are worth rupees 1,000. The 2nd accused is not doing any work. She generally follows the 1st accused to his field, etc. The Police did not torture us to confess. As we were told by the people that both the 1st and 3rd accused had confessed their crime and had implicated us also we thought that there was no use in denying. So we confessed an hour after we surrendered to the Police. My sister told me about the confessions made by 1st and 3rd accused and about their implicating us at Bellary. She had come to Bellary to Khasim Saib who is a merchant and a friend of 1st accused and of her late husband. I met her in the street. Then she informed me about all this and consulted as to the future procedure to be followed. I told her that as the matter was published by 1st and 3rd accused, it would be wise to surrender ourselves and to confess freely. I thought that there was no way of escape and that the crime was detected. My sister was not tutored by any one. Neither was she tortured to confess before the Police.

Read over, translated into Kanarese and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

30—11—1917.

Deposition of Hanumantha, 2nd witness for the prosecution, taken on affirmation this 30th day of November 1917.

I knew the deceased Thimmaga. I was sleeping in the Chavadi. On a certain night about 3 months ago I went to the Chavadi in my village as usual to sleep. I found the deceased seated in the Chavadi then. Then Thimmia (Note:—The boy points out the 3rd accused) came and called the deceased Thimmaga and took him to the village towards the old house of Devappa. (Note:—The boy points out the 1st accused and says that it is this Devappa). Two days after he was so taken, the villagers were talking about Thimmaga being murdered, near Kudala Gudda.

Cross-examined by Mr. M. Anantha Chetty:— Nobody was present at the Chavadi. It was at supper time. We generally take supper an hour after lamps are lit. I had taken my meals then. It was dark then. I have stated before the lower Court that I went to the Chavadi to sit. It is true that I went to Chavadi to sit there after meals. I have stated before the lower Court that 'I went home and slept.' It is true that I slept at Chavadi on that night. The deceased was my cousin brother. I did not inform this to anyone. The Police sent for me and asked me.

Re-examined.—I slept at the Chavadi on that day. It is by mistake I have stated that I slept in my house that night. When I learnt of the murder of Thimmaga, I gave out in the village what I had seen, i. e., that I saw the 3rd prisoner taking the deceased from the Chavadi on the previous night.

By the Court.—There were persons in the village when I said this. I do not know how my father is related to the deceased's father. I was not visiting the deceased's house. The deceased was not visiting my house. I call his father 'Doddappa' i.e., elder uncle by courtesy. He is not the brother of my father. It is customary among our community to call some of the elders, Doddappa and some of them as Mava though they are distant relatives. I swear that I saw the 3rd accused taking the deceased from the Chavadi on the night of the day previous to my hearing the news of his murder. Nobody taught me to say this.

(Note.—The demeanour of this witness is straightforward and satisfactory).

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa,

Sessions Judge.

30—11—1917.

Deposition of Basakka, 3rd witness for the prosecution, taken on affirmation this 30th day of November 1917.

I know the deceased Thimmia and I know the accused. I have a son named Paramesvara. I and my son wash the clothes of the 1st accused. My son was tending the goats of the 1st accused. On Wednesday night at meal time when Agnikonda festival at Rampur was celebrated, I saw the 3rd accused coming from outside the village and taking the deceased from Chavadi and going towards the 1st accused's old house in the village. The deceased's house is also near the 1st accused's old house in the village. The deceased's house is also near the 1st accused's old house. My house is about 30 or 40 yards from Chavadi. I saw them going at supper-time. I was going then to bring food from the house of the villagers whose clothes I was washing.

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Cross-examined by Mr. Anantha Chetty.—

I came to live at Vitlapur on Hampe Hunavi, i. e., in the month of Chaitra of this year. Before that I lived at Devasamudra. I have taken the house of Pujari Linga on a lease. My son was tending two goats belonging to 1st accused along with four of my goats. As 1st accused had allowed me to tie my goats in his house my son was tending his goats. He gave up tending his goats about 8 days before I saw the deceased being taken by 3rd accused. As I was unable to wash the clothes I took my son's assistance. I left my goats at Devasamudra. The 1st accused left his goats to be tended along with the sheep belonging to Bhadrappa of Thimlapur. I wash the clothes of 25 householders in that village. I did not go to Agnikonda. The people in my village spoke about Agnikonda at Rampur to be celebrated on that day. I saw the 3rd accused and the deceased passing in front of me when I was going to get food. I met them at Thippanna's house. His house is about 10 feet from Chavadi. As it was dark I did not see any one in Chavadi, when I passed through it. It was supper time. It was long after the lights were lit. The deceased was going in front and the 3rd accused was following him at a distance of a yard or so. Nobody was seen walking about at that place.

I did not see any one else when I went to take food from the villagers. (Note:—Mr. Anantha Chetty wants to put the question to this witness relating to her former statement. 'I saw the deceased and the 3rd accused going together from the Chavadi towards the house of Thimmaga (deceased).' Witness says: that they went towards the old house of the accused, not Thimmaga's house. The Magistrate has made a correction and has changed Thimmaga into Thimmia, and there is thus no contradiction). I did not mention this to any one. No Policeman told me to say like this.

Re-examination.—Nil.

By the Court.—On Friday following I heard of the murder of Thimmaga, i. e., two days after I saw him in company with the 3rd accused. I did not say then to any one about my seeing. But when I saw Mariappa, the father of the deceased Thimmaga searching for his son on Thursday, I told him that I saw the deceased and 3rd accused going in company—one following the other. I am still washing the clothes of the accused. They pay me 80 seers of ragi or jola per year as wages. They are friendly with me. I have seen the 2nd accused speaking to the deceased twice just 15 days before this murder. I saw them seated on a cotton seed grinding stone in the old house of the 1st accused on that occasion. They were talking then. That house is adjacent to mine. The accused are living in their house outside the fort. Since Karehunavi in the month of Justa of this year, I am not aware of the deceased keeping the 3rd accused's sister. When the 2nd prisoner and the deceased were talking in the old house nobody was present then. I saw them seated together and went inside my house. The 2nd prisoner takes her food in her sister's house and sleeps in the house of the 1st accused. I am not aware of their relationship.

Deposition of Dodda Basappa, 4th witness for the prosecution, taken on affirmation this 30th day of November 1917.

We were keeping watch at Chavadi in our village by turns. On Wednesday, about 3 months ago, Agni-

konda festival was celebrated at Rampur. On that night myself, Thippia and Thimmia and Talwar Lakshma and two Begars were watching the village on that night. We were sleeping in the Chavadi. After sleeping for sometime I and Thippia got up to go round the village. We were seated. The 3rd accused entered the village and passed by the Chavadi. The Chavadi is in front of the village gate. One has to pass through the Chavadi before entering the village. While we were chewing betel leaves, the 3rd accused and the approver Thippia came and went out of the village gate. They passed very near us. They were passing at a distance of 2 yards from us. We were able to recognize their faces. There was sufficient light to see them.

Cross-examined by Mr. Anantha Chetty:—There was no lamp burning at the Chavadi. Basappa and Nagappa went out of the village on that night to see Agnikonda, after supper. There was light enough to see them. There was no moon light. Thimmappa was in the Chavadi. I went and sat. Thippia came after a galaga. Thippia asked the 3rd accused who he was when he was entering the village. He turned round. He did not reply. I asked Thippia who he was. He said that he was Thimmappa of Vitlapur. I saw the 3rd accused after Thippia spoke to him. I saw him well. At first I was seated near the pillar. Thippia was seated about 2 feet from the place where I was seated. I have stated before the lower Court that 'Thippia said that the 3rd accused appeared to be a man of Vitlapur.' We were all sleeping None else woke up except we two then. We were the only two that saw them. When we entered the village gate we began to chew betel leaves. When we were chewing they came. We did not question them when the approver and 3rd accused passed through the gate. I have stated before the lower Court "Myself and Thippia went together to the Chavadi and sat on the katte." I did not tell anyone what I saw. My turn comes once in 10 days. Turn falls to the same set of persons. My turn came 10 days previous to that. I could not say who passed then through the Chavadi.

Re-examined:—Thippia came just after me. About 8 days after the Police Inspector came and enquired

of all men whose turn it was to watch on that night. I and Thippia stated that we saw on that night.

By the Court.—When I gave my statement before the Police I had not known of this murder. I pay an assessment of Rs. 20. I am neither a friend nor a foe of the approver. I am on speaking terms with him. I am well acquainted with all the accused. The 2nd accused was born in my village. I am not aware about 2nd accused keeping a Madigar. The 3rd accused was frequenting the house of the approver Thippia P.W.1 for the past 4 years. I am well acquainted with him. I am prepared to take any oath even holding my son in a temple that I actually saw the 3rd accused entering the village and that he and Thippia came out of the village a little while after on the night of Wednesday 3 months ago. No Policeman tutored me to say so. I am a man of children. Why should I tell an untruth, Sir? My properties are valued at Rs. 300. I have contracted a debt of Rs 200 to purchase sheep. I am rearing sheep.

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa.
Sessions Judge.

30—11—1917.

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Deposition of Melur Thippia, 5th witness for the prosecution, taken on affirmation this 1st day of December 1917.

I know the 3rd accused as well as the approver Thippia (P.W. 1). About 3 months ago, on the night of Wednesday there was Agnikonda festival at Rampur. On that night myself, Kumbar Dodda, Basappa P.W. 4, Thimmia, Talwar Lakshma and two Begars were at the Chavadi which is at the entrance of the village gate for the purpose of keeping a night watch. It was our turn on that day. We were sleeping for a short time. I and Basappa woke up for night duty. As we were chewing betel leaves the 3rd accused entered the village gate from outside. I questioned him who he was He turned round. I saw his face then and found that it was Thimmia the 3rd accused. He did not give any reply. He went away. Thippia

and 3rd accused came from inside the village while we were still chewing betel leaves. They both went outside the village. They both passed at a distance of about 2 feet from us. There was star light then. As our village man was going we did not question them.

Cross-examined by Mr. Anantha Chetty:—I questioned him when he came near me. He was then at a distance of two feet from me. He turned round. I did not question him where he was going. Nobody passed through the gate on that night except these two persons. Basappa did not speak to him. Basappa asked me who it was. I told him that it was the 3rd accused from Vitlapur. Basappa was seated near a pillar. The others were sleeping then. We were the only two that were asleep and seated then. When I went Thimmappa and Basappa were seated in the Chavadi. Basappa had just then come and seated when I went and sat there. I did not mention this to any one. I did not go to Agnikonda feast. My village is two miles from Rampur.

Re-examination.—Nil.

By the Court:—I pay an assessment of Rs. 28. The Police Inspector asked the patel who were watching the village on that night. Learning that we kept a watch on that night he examined me, Basappa and Begars. I know the 3rd accused from my boyhood. He is my casteman. He was frequenting our village. I was also frequenting his village. So we know each other. I swear in any temple that I saw the 3rd accused and the approver going out of the village on that night and that the former came to our village on that night. I was examined a week after this incident. It was on the following Wednesday that we were examined. By that time I had not heard of this murder.

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

1—12—1917.

Deposition of Madigar Hanumantha, 6th witness for the prosecution, taken on affirmation this 1st day of December 1917.

I am working in the house of Thippia P. W. 1, since a year and a half. I know the accused for the last year and a half. I know that Agnikonda festival was celebrated at Rampur on a Wednesday some time back this year. I was sleeping in my house on that night. My master Thippia was in that house. His wife and children were taken by my master's father-in-law to witness Agnikonda in the afternoon of Wednesday. His father-in-law is a resident of Rampur. There were none else in his house except Thippia on that night. Before first cock-crowing time, i. e., before 4 a. m, on the following day my master came to my house and woke me up. He took me to his house. The 3rd accused Thimmia was seated in my master's house. My master told me to accompany the 3rd accused to Vitlapur and asked me to bring a bullock which would be given. Both of us started to Vitlapur. When we reached that village it was dark. He asked me to sleep in the new house of 1st accused Devappa, while he himself went to the old house of Devappa. In the morning the 1st accused came and asked me why I had gone there. I told him that my master had asked me to bring a bullock from him. He brought a bullock and gave it to me. It is of red and white colour. I took it and gave the same to my master. My master had one pair of bullocks before. He was in the village for three days. He told me on following Monday that he was going to buy a bullock and asked me to put up a fence. He gave me a hatchet to cut the wood. About 15 days after he came with the Police and asked me where I had kept the hatchet which he had given. Article No. 1 is the hatchet. I produced it before the Police.

Cross-examined by Mr. M. Anantha Chetty.—I did not go to see Agnikonda on that night. None of our castemen went to see it. I spoke to Thimmia when he was seated in my master's house on that night. My master did not tell me why the bullock would be given. He did not tell me anything except that a bullock would be given and that I should bring it. Nobody saw us going to Vitlapur on that night. When the bullock was given in the new house of 1st accused nobody was present. There may be people at home

then. There were passersby in the road while I was bringing the bullock. I was not acquainted with the travellers that passed that way then. I am not acquainted with any villager in Vitlapur except the accused. I had not been to Vitlapur on any previous occasion.

Re-examined.— As the accused were frequenting my master's house I had known them.

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

Deposition of Thippanna, 7th witness for the prosecution, taken on affirmation this 1st day of December 1917.

I know Thippia P. W. 1. The 2nd prisoner is his elder sister. She was born in our village. She was married to Kivadu Basappa of Vodu about 20 years ago. She was the 3rd wife of Basappa. He was an old man when he married the 2nd prisoner. She was living in her parents' house for a longer duration than she was with her husband. Her husband preferred a complaint to the Swami of Parvata Mutt alleging that his wife had committed adultery with a Begar. The Swami excommunicated the 2nd prisoner and her mother and brothers for six months or so. The mother of 2nd prisoner with the help of her brother-in-law who was residing at Vitlapur got the bull of excommunication rescinded. This was about 10 or 14 years ago. She had a son then. That son died. She has a daughter and son now. The Agnikonda at Rampur took place on a Wednesday night about 3 months ago. On that night I had ordered Doddabasappa P. W. 4, Thippia P. W. 5 and Thimmiah a Talwar and 2 Begars to watch the village on that night. Rampur villagers had arranged for reading of Puranas in the month of Sravana of this year. In commemora-

tion of it they performed Agnikonda about 4 or 5 days on a Wednesday after the new moon day in the month of Sravana.

Cross-examined by Mr. Anantha Chetty.—The Swami and a peon had come to our village in connection with the excommunication. We received an order from the Swami to send the 2nd accused to answer charge of adultery against her. I was not present when the complaint was made. The servants of Parvata Mutt informed me about it. They had come to my father and got his signature to the thakit. I was not present when my father signed the thakit. I heard of it. After the matter was settled her husband took her to his house. I did not go to see Agnikonda. I had been to Rampur in the evening of Wednesday. Then I saw that they arranged for the Agnikonda by placing fuel, etc., in the path prepared for the purpose. Three villagers, a Talwar and 2 Begars were sleeping in the Chavadi every night by turns to watch the village. There is a list prepared for showing who should do their turns every day. I being illiterate do not read it but I go to houses and arrange for the night watch according to the list. I cannot say now who kept a watch on the day previous to Wednesday without looking into the list. The Police Inspector came and asked me who were the persons that kept a watch over the village on Wednesday (Agnikonda day). This was on the following Wednesday. I had not told who kept watch on that day to any one before that.

Re-examined.—As the Police Inspector had questioned me about the persons that kept a watch on that day, I remember it.

By the Court.—We the caste people were not mixing with 2nd prisoner and her people while they were excommunicated by the Swami. I pay an assessment of rupees 100. I know the accused. They were frequenting our village. I am neither a friend nor a foe of the accused. I own properties valued at rupees 2,100. I have a debt of rupees 100.

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

Deposition of Hiridalappa, 8th witness for the prosecution, taken on affirmation this 1st day of December 1917

I know the accused. The 3rd accused is the nephew of 1st accused who had married the 3rd accused's elder sister. The 2nd accused's daughter is married to the 3rd accused. All the accused are living in 1st accused's house. The 1st accused is keeping the 2nd accused. The third accused, his other brother, his sisters, his wife and his mother are all living with 1st accused and his family. The 1st accused preferred a complaint to me against the deceased on 16th July 1917. Exhibit P2 contains the 1st accused's complaint. The 1st accused has signed it. I sent it to the Police Station at Rampur. The deceased and 1st accused were enemies since the report exhibit P2 was made. The deceased was in my hearing, abusing accused Nos. 1 and 2 saying as follows :—

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P2

"The 1st accused decoyed me into his field and there beat me with sandal. He is keeping a degraded woman who had intercourse with a Madigar. I am keeping Thimmavva the widowed sister of 1st accused's wife. I am therefore, in no way inferior to 1st accused. He beat me in a secluded place. I am going to beat him in a bazaar, i.e., in a public place." I have heard him abuse in this manner twice or thrice, both in the morning and in the afternoon. He was abusing 4 or 5 days after I made the report exhibit P2.

Cross-examined by Mr. Anantha Chetty.—After the report reached the Police Station, Police arrived on the scene to make enquiries. Sannavanu referred to in exhibit P2 is also called Thippaga. I do not know whether Police sent for Sannonu and examined him. I do not know what the Police did in that case. The stolen things were discovered. The deceased did not complain about sandal beating. He was abusing in front of the village gate. I was seated in the Chavadi writing Government accounts then. The 1st accused was not there. Talwar Bhima was seated in the Chavadi then. The 1st accused did not tell me about the deceased abusing him. I own a house in Vitlapur. I have no lands in that village. It is my ancestral house. My father and mother are living at Thirumalapur. We are living at both the places. Our lands are situated at Thirumalapur.

Re-examined.—Thirumalapur is about a mile from Vitlapur.

By the Court.—About 3 or 4 days after I made the report exhibit P2 the father of the deceased (Mariappa) complained to me about the 1st accused's beating the deceased with a sandal. I told him that his son was well served for he had committed theft and that it would do him good. When the deceased was abusing the accused Nos. 1 and 2 I admonished him and told him that it was not right for a low casteman like him to abuse a villager belonging to high caste. Thereupon he went away. On the next occasion when I heard him abuse the accused, I taxed him for repeating the abuses. He went away. I pay an assessment of Rs. 75.

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

Deposition of Mr. Nanjundiah, 9th witness for prosecution, taken on affirmation this 1st day of December 1917.

I am in charge of the Local Fund Dispensary at Molakalmuru. On the requisition of the Police Inspector I went on 24th August 1917 to Kudlu Gudda to hold autopsy on the body of one Thimmaga. Autopsy was held on the spot at 4-10 p. m. on 24th August 1917.

The following injuries were found on the body:—

1. One incised wound on the back of the left wrist measuring 4 inches in length, breadth $\frac{1}{4}$ in, $\frac{3}{4}$ in in depth. The muscles and vessels cut and the carpal bones cut. The direction of the wound was transverse.

2. Another incised wound on the back of the left shoulder joint measuring $1\frac{1}{2}$ inch in length, $\frac{1}{2}$ inch broad, $\frac{1}{4}$ inch depth. The direction of the wound was transverse.

3. An incised wound one inch below the lower lobe of the left ear $1\frac{1}{2}$ inch long, one-third

inch broad and depth ¼ inch. The muscles and vessels were cut. The direction of the wound was transverse.

4. An incised wound below the wound No. 3 measuring 2½ inches in length, ½ inch in breadth and depth one and one-third of an inch. The muscles and vessels were cut. The direction of the wound was transverse.

5. An incised wound on the back of the left side of the neck measuring 1¼ inch in length, ¾ inch in breadth and depth 1¼ inch. The muscles and vessels were cut. The direction of the wound was oblique.

6. An incised wound below the left cheek measuring 2¼ inches in length, breadth ½ inch. and depth one-third inch. The muscles and vessels were cut. The direction of the wound was oblique.

7. Below the wound No. 6 there was an incised wound 2½ in. in length, ¼ inch breadth and one-third inch in depth. The muscles and vessels were cut. The direction of the wound was oblique.

8. Below No. 7 an incised wound (below the left lower jaw) measuring 2¼ inches in length, breadth 1¼ inch, depth ¾ inch touching the bone. The muscles and vessels are cut and the direction of the wound was oblique.

9. Below No. 8, an incised wound 2¼ inches in length, breadth ½ inch and depth ¾ inch. The muscles and vessels were cut. The direction of the wound was oblique.

10. An incised wound in front of the right side of the neck, leading towards the right ear measuring 3 inches in length, ¾ inch in breadth, depth 1¼ inch. The muscles and vessels were cut. The direction of the wound was oblique.

On dissection I found pluræ and larynx and trachea conjested. As the respiration was stopped

by the injuries on the neck this conjestion was formed. I am of opinion that death was due to hemorrhage—the result of several injuries on the neck caused by a sharp instrument. It could be caused by Art, No 1. From the direction of the wounds I conclude that the blows must have been dealt by one standing behind and on the sides of the person injured. It is not possible to say which of the injuries described were caused after death. Exhibit P3 is the certificate I granted.

Cross-examined by Mr. Anantha Chetty :—It is possible for a man standing behind and deal blows to the neck and cause injuries described above. It is possible to the cause injuries on the shoulder and on the wrist. (This is an answer to the question :—How many wounds could be caused by a man dealing blows from behind?). The deceased was a stout, strong and healthy person, aged about 25 years. The wounds might have been caused within 36 hours from my examination. Any one of the wounds was sufficient to cause the hemorrhage and death.

Re-examined :—Since putrifaction had not set in, so I say that the wounds might have been caused within 48 hours. I say 48 hours, because decomposition sets in 48 hours in India.

By the Court.—As I did not properly understand the question put by Mr. Anantha Chetty for the accused, I said that the wounds might have been caused within 36 hours from my examination. It is not possible to fix with accuracy the time of death of a person from the fact of decomposition not setting in. From the condition of the digested food in the stomach and its contents I say that the death may have occurred about 4 hours after food. I found half digested rice in the stomach. It was not completely digested.

Read and admitted correct.

(Signed) B. Nagappa,
Sessions Judge.

Deposition of Channabasappa, 10th witness for the prosecution, taken on affirmation this 1st day of December 1917.

I know the 3rd accused wearing the Panche Art. No. 2 at Molakalmuru on 1st September 1917 when the Police seized it in my presence and in the presence of panchayetdars. It contained blood stains. This was sealed in the presence of panchayetdars. He had itches in the hands and in his waist. The blood stains had been washed. There were only a few stains.

Cross-examined by Mr. Anantha Chetty.—I am not a doctor. It is not possible to say whether the blood stains were due to itch or to any other cause. He had no itch on the thighs on that day. When I saw him before the Committing Magistrate he had itch all over the thighs and hands.

Re-examined.—I saw him on 27th September 1917 in Court. He had itch then after I saw him on 1st September 1917.

By the Court.—I am trading to the extent of Rs. 50,000. I own properties to the extent of rupees 70,000. The 3rd accused gave information regarding how the blood stains were caused on his Panche and shewed the same to us all. He said that he had washed it immediately after the event. (Note.—The confession made to the Police in his presence is excluded. It is only so much that led to the seizing of Panche is relevant). He did not say that the blood stains were caused by itch. The 3rd accused was at the Police Station. I was also there for about an hour. When the 3rd accused gave information I am positive that no ill treatment took place. He himself volunteered the information regarding the blood stains and other matters connected with murder.

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

Deposition of Mia Sabi, 11th witness for prosecution, taken on affirmation this 1st day of December 1917.

I received information regarding the finding of a dead body in Kudlu Gudda within the precincts of my village through the boy named Gangappa. I took villagers and Madigars to the spot. I saw the dead body and sent exhibit P4.

Cross-examination by Mr. A. Chetty.—Nil.

Re-examination.—Nil.

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

Deposition of Thimmakka, 12th witness for prosecution, taken on affirmation this 1st day of December 1917.

The deceased Thimmaga was my son. I know the accused. They are of my village. The 2nd accused was living in Devappa's old house. The deceased had told me that the 1st accused had beat him with a sandal. He was abusing the 1st accused some 8 days before his murder. Though there was enmity between my son and 1st accused, the 2nd accused was befriending him by giving betel leaves, etc, and talking to him both in the old house of the 1st accused and in his house. I have actually seen this. The 2nd prisoner was keeping the 1st accused. As the 1st accused was an enemy of my son, as the second accused who is his paramour was befriending my son I was alarmed lest something serious might happen. I advised my son not to associate with the 2nd accused. As he did not take my advice I told my husband to advise him and put a stop to his associating with 2nd accused. After this talk my son was murdered. My son took his meals at supper time on Wednesday when there was Agnikonda at Rampur. He went out and came back and asked me whether we had any bread. I said that there was no bread at home. I offered rice. He did not want it. He went away. I did not see him again. He did not come home to sleep on that night. I learnt of his death on Friday following.

Cross-examined by Mr. A. Chetty .—I cannot exactly say how many days before his death he told me about 1st accused beating him with a sandal. It was in my house he told me. There were none then. He did not prefer any complaint to the authorities. I did not see my son talking to 1st accused after he reported to me about beating with sandal. He was friendly with the 2nd accused. I have deposed before the Magistrate that "the accused and my son where on inimical terms for some time. Then they compromised." We had prepared mutton, rice and Jola bread in the afternoon of Wednesday. We had kept cold food for the night. I have seen them seated and talking together every day. All the villagers say that the 1st accused was keeping the 2nd accused. The 2nd accused is living in 1st accused's house. My son told my husband also about his being beaten with a sandal by 1st accused. My son was drinking toddy. He was going to Rampur and Bevasamudra to get toddy.

Re-examined.—What I meant by the 1st accused compromising with my son, is that the 2nd accused effected reconciliation with my son after the quarrel with 1st accused.

By the Court.—The 1st accused never used to address the 2nd accused as 'Amma' as others would address her. Similarly the 2nd accused never used to address the 1st accused as 'Appa' as every other woman does except his wife. They used to be laughing in their conversations. From these acts I knew that they were friendly and the 1st accused was keeping the 2nd accused. I served meals to my son on Wednesday. I served him rice and mutton for his night meal on Wednesday. When any mutton prepared is made in our houses, the males generally drink and come to my house. I did not see whether my son was drunk on that night. He is the manager of the house. I do not know whether anybody was giving anything to him for drinks. I had heard from the villagers that my son was keeping a widow Thimmavva, the younger sister of 3rd accused. There was enmity between the 1st accused who is the maternal uncle of Thimmavva and my son.

Read, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

1—12—17.

Deposition of Nagappa, 13th witness for prosecution, taken on affirmation this 3rd day of December 1917.

The deceased Thimmaga is the son of my elder brother. I know the accused. Since the pulleys were stolen my nephew and 1st accused became enemies. The 1st accused took him to his kapile field and beat him in my presence with a sandal saying that he had stolen the pulleys. After this the 1st accused complained against the deceased. Nothing came out of his complaint. My nephew was abusing the 1st accused saying that 1st accused who was keeping a degraded woman, i. e, the 2nd prisoner spoiled by a Madigar was not in any way better than he who was keeping the 1st accused's niece the widowed sister of 1st accused's wife, and that he would beat 1st accused with a sandal in public. I adviced the deceased not to abuse the accused who however belong to high caste But he did not take my advice. This was 15 days before his death. Thereafter I observed my nephew and 2nd prisoner being friendly. Thinking that they might have effected reconciliation I kept quiet. My nephew was in the habit of drinking. He was getting toddy, etc., from Devasamudra. Last time I saw him at 4 P. M. on a Wednesday about 3 months ago when Agnikonda took place at Rampur. He returned then from Devasamudra after having a drink. On Friday following I saw his corpse lying near Kudlugudda in the vicinity of Bommakkanahalli. A Begar came and informed us on Friday morning about a corpse lying there. I and my brother went and found to our dismay that our boy was murdered. We identified the body.

Cross-examined by Mr. M. Anantha Chetty:—The accused and my nephew were friendly before the theft of pulleys. The complaint was before the 1st accused beat the deceased with a sandal. There were about 6 or 7 persons present including the 3rd accused and the servant of 1st accused. Mariyappa came to the spot just after the beating.

I have stated before the Committing Magistrate that Mariyappa was present at the time of beating. As he came soon afterwards the beating, I said so. My nephew did not complain to the authorities. The Jamadar came to the spot after the complaint by 1st accused. I do not know what he did. He did his

work and went away. I do not know whether he sent for my nephew. I observed my nephew abusing the 1st accused near the village gate and also in front of 1st accused's house on two occasions in the evening when he was under the influence of drink. The 1st accused and the deceased were enemies for 15 or 20 days after the theft of kapile. I did not see the 1st accused talking to the deceased after their dispute. The deceased was frequenting the 1st accused's old house where the 2nd prisoner was. He was speaking to her. I only saw Devappa giving him money to drink on a Tuesday at a Shandy about 15 days before his death. I did not see how much he gave. Devappa himself called Thimmaga and gave the money. He was frequenting the 1st accused's house when 1st accused and 2nd accused were seated and whenever 2nd accused used to call him. I have actually seen him coming out from an arrack shop at Devasamudra. When we were mourning near the body I saw the 1st accused at a distance. When I turned round afterwards he was not to be seen. I did not see Doddathimmappa there then. Thippiga alias Sannayanu referred to in exhibit P2 belongs to our caste, but he is not our relative. I had heard of Agnikonda at Rampur.

Re-examined.—I have stated before the lower Court that the deceased was frequently visiting the 1st accused. This was when he was going to the 1st accused and 2nd accused whenever the latter called him. This was in the old house.

By the Court.—As the deceased did not listen to my advice, I ceased advising him afterwards. The deceased was visiting the 1st accused's house before their dispute, on account of Thimmi, the sister of 3rd accused. All the villagers were saying that he was keeping her. I am separate from my brother. I pay an assessment of rupees 75 to Government. My properties are worth about rupees 2,000. I have debts to the extent of rupees 200 or 300 which I contracted to construct a well as well as for agricultural purposes.

Read, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

3—12—1917.

Deposition of Doddathimmia, 14th witness for prosecution, taken on affirmation this 3rd day of December 1917.

I know the accused. The 3rd accused is dependent on 1st accused. I knew the deceased. The 1st accused and the deceased were on inimical terms since the former reported against the latter to the Police regarding the theft of pulleys. The deceased was abusing the 1st accused on account of the deceased being beaten with a sandal in the field of 1st accused. The deceased had told me about the beating. The deceased was saying that 1st accused has kept a woman, viz., the 2nd accused who is a degraded woman spoiled by a Madigar, that he had kept 1st accused's wife's sister, that in consequence he was in no way inferior to 1st accused, that he was unnecessarily beaten with a sandal and that would retaliate by beating the 1st accused openly. The 1st and 2nd accused who were seated in the Katte heard this abuse. They appealed to me. I pacified them by saying that he was drunk and talking like that and that they should not heed his words. This was about 15 days before his death. The 2nd accused told the 1st accused that though he was a man yet he pocketed the insult but that though she is a woman she would not keep quiet. She told him to see what she would do. Three days before I heard of the death of Thimmaga, i. e., on a Tuesday I met the 2nd accused who was followed by 1st accused in the evening in the field of 1st accused. I asked Thimmakka where she was coming from. She said that she had gone to Bedar Thimmaga. Then I questioned her how it was that she had gone to him though they were not on good terms. She said that she had contrived to dupe him. I asked her how she had contrived. She told me that she had made representations to the deceased to the effect that the 1st accused had refused to give her son-in-law a share in his properties that in consequence it was necessary to remove him by poisoning, that by doing so her son-in-law would get his share and that the deceased would then have free access to Thimmakka the younger sister of 3rd accused, that she had arranged with her brother to send poison and asked Thimmaga to go with her son-in-law to get poison from her brother. She further told me that arrangements were made to kill him while he was on his errand. I advised both the 1st and 2nd accused not to commit

such a deed and that it was not proper for respectable persons to be engaged in such a foul deed. They said that they would not do so. I went away as it was about to rain. On Thursday following I learnt about the death of the deceased, from 1st accused. He also told me that though he told them not to do it yet they did it. (This is volunteered). The 1st accused's elder sister is my mother-in-law. I and the 1st accused were trading jointly.

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Cross-examined by Mr. Anantha Chetty —I and the 1st accused have sold the land of my mother-in-law. There was no ill-will between us on that account. I saw the deceased abusing the 1st accused once near the village gate in the evening. Nobody was present then. After that the 1st accused and the deceased were enemies. The deceased was not visiting the 1st accused's house. They were friendly before the beating with a sandal. The field of 1st accused is about 2 furlongs from the village. The 1st and 2nd accused were coming together when they met me and 2nd accused told me about it. I did not remember about the 2nd accused telling me that though she was a woman she would do something when I deposed before the lower Court. I do not know why the 2nd accused told me. On Thursday evening the 1st accused came and told me that the 3rd accused and the approver Thippia had hacked the deceased to pieces. He also said that though he told them not to do it after my advise they kept quiet and have done this. As the Prosecuting Inspector did not question me how the deceased was hacked to pieces, I did not say. I did not inform these facts to anyone. I was not kept at Rampur by the Police. I was in my village and was examined by the Police there. On a Monday or Tuesday following the murder, I was examined by the Police Inspector. The 1st accused was in my village then. I did not see when he was taken by the Police.

Re-examined.—As I was afraid I did not inform this to anyone. Devappa was in custody of the Police when I was examined. I did not state before the Committing Magistrate what the 1st accused told me regarding to the 2nd accused doing the deed though he told them to keep quiet. I did not remember then.

By the Court—By mistake I did not say this either before the Police or before the Committing Magistrate. The accused Nos. 1 and 2 had confidence in me. My house is opposite to 1st accused's house which is outside the fort. The 1st and 2nd accused told me on Tuesday that they had arranged with Thippia at Devasamudra Shandy on that day to kill the deceased Thimmaga. The 1st accused told me that he informed the 2nd accused not to do it and that I might inform this to others. The 1st accused is keeping 2nd accused. He is listening to her advice. She is the mistress of 1st accused's house. When 1st accused told me on Thursday I did not ask him what steps he had taken to prevent the murder. Devappa did not tell me anything more. After Devappa's examination by the Police Inspector, I was examined. The Police did not beat Devappa in my presence. I did not see the 2nd and 3rd accused after the murder I only saw them in Police custody afterwards. I pay an assessment of Rs 80. I and 1st accused traded jointly this year. (Note.—At the request of Mr. A. Chetty the following answer was elicited:—The accused No. 1 had not told me at any time about the commission of any murder.)

Read, interpreted and admitted to be correct.

(Signed) B Nagappa,
Sessions Judge.

3—12—1917.

Deposition of Ebrahim, 15th witness for the prosecution, taken on affirmation this 3rd day of December 1917.

I was given a sealed packet containing Article No. 2 to be delivered to the Chemical Examiner at Bangalore. I accordingly delivered the same on 7th September 1917 to that officer. They returned the same on that evening. I handed the packet to Taluk Inspector at Molakalmuru.

Cross-examination.—Nil.

Re-examination.—Nil.

Read, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

3—12—1917.

Deposition of Mr. T. Lakshmiah, 16th witness for prosecution, taken on affirmation this 3rd day of December 1917.

I received the report exhibit P4 at Rampur at 8 P. M. on 23rd August 17. I submitted F. I. R. and went to the spot. I arranged to get the Sub-Assistant Surgeon and a Photographer as from the report it was not clear about the identity of the deceased. I sent people to the neighbouring villages to find out the identity of the deceased. On 24—8—1917 I held the inquest and examined Mariappa the father of the deceased, Nagappa P.W. 13 and others. The body was identified. I got two photos exhibit P 5a and exhibit P 5b taken. The post mortem was held on the spot. On 25—8—1917 I examined Thimmakka (P. W. 12), Mudiappa and others at Vitlapur. On 26—8—17 I examined Hiradalappa (P. W. 8), Hanumantha P. W. 2, Basakka P. W. 3 and others. On 28—8—1917 the 1st accused was arrested, and I examined Doddathimmia (P. W. 14). On 29—8—1917 I went to Oblapur I examined Thippanna P. W. 7, Thippia P. W 5. Doddabasappa P. W. 4, Madigar Hanumantha P. W. 6 and others On 1st September 1917 the 3rd accused was produced before me by Narasoji the Daffedar. I arrested him. On information furnished by him we discovered blood stains on his Panche Art No 2. We saw blood stains. I seized Article No. 2, sealed it and sent the same through Ibrahim P W. 15 to the Chemical Examiner for examination. Exhibit P6 is the Chemical Examiner's certificate granted He was ready to confess on 1—9—1917. He was sent to Challakere to obtain remand and also to have his confession recorded. On 6th September 1917 the 2nd accused and approver Thippia surrendered themselves at Molakalmuru before the Amildar and myself. I sent the accused before the Magistrate at Chitaldroog about 3 days before the charge sheet was placed, with my Daffedar and Constable They were brought back to Molakalmuru and kept in lock-up there. I did not promise to grant pardon to the approver I did not inform either the Prosecuting Inspector or the Magistrate about the propriety of granting pardon to the approver. I learnt from my investigation that the deceased was at Vitlapur on the evening of Wednesday the 22nd August 1917 and not at Rampur. I examined Razu Sab. (Note.—Mr. A. Chetty asks the witness what

Razu Sab told him about the deceased. Order.—The question is overruled). I do not know whether there was any written complaint filed by the deceased against 1st accused. They were arrested. As they were ready to make a confession they were sent on the same day to Challakere to get a remand and also to have their confessions recorded by a Magistrate. On 10—9—17 the approver produced Article No. 1 at his village in the presence of panchayetdars. I examined some witnesses on that day. On 13th September 1917, the charge sheet was placed before the Magistrate. Exhibits P7, P8 and P9 are the sketches of Vitlapur, Oblapur and scene of occurrence, respectively, drawn up by me. They are correct.

Cross-examined by Mr. M. A. Chetty.—On 25—8—17 I did not see Doddathimmia at Vitlapur. Doddathimmia was not kept at Rampur for some days.

Re-examined.—The Magistrate sent the accused to Molakalmuru Taluk Lock up as he wanted to hold the enquiry there.

Read, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

3—12—17.

Deposition of Mudiappa, 17th witness for prosecution, taken on affirmation this 3rd day of December 1917.

(Note.—This witness is tendered for cross-examination).

Cross-examined by Mr. A. Chetty.—On Wednesday the deceased was lying on my pial. It was just after the lamps were lit. He came there while we were taking supper. When we came out after taking supper he was not there.

Re-examination.—Nil.

Read, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

3—12—17.

Deposition of Gangiah, 18th witness for prosecution, taken on affirmation this 3rd day of December 1917.

Tendered for cross-examination.

Cross-examined by Mr. A. Chetty.—I have not observed the deceased visiting the 1st accused's house after the latter told him not to sit close by the Lingayets. This was about 1½ months before his death. I did not see the deceased abusing the 1st accused.

Re-examination.—Nil.

Read, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

3—12—1917.

Deposition of Giddanna Gowda, 19th witness for prosecution, taken on affirmation this 3rd day of December 1917.

Tendered for cross-examination.

Cross-examined by Mr. A. Chetty.—Agnikonda festival took place on Wednesday the 22nd August 1917 in my village. There was a procession of Nandikolu from 10 p. m. till next morning. Thippia and Basappa of Rampur had never seen them playing at Nandikolu. They did not play at Nandikolu on that night. They do not know how to play and did not play on that day.

Re-examination.—Nil.

Read, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

3—12—1917.

IN THE COURT OF SESSIONS,
SHIMOGA DIVISION.

Chitaldrug Sessions Case No. 6 of 1917—18.

Name of 1st accused—Devappa.

Age—45.

Race, Religion—Lingayet.

Father's name—Hanumanthappa.

Residence—Vitlapur.

Occupation—Agriculture.

Q.—Have you given the statement exhibit P10 before the lower Court?

A.—Yes.

Q.—Have you any witnesses to be examined?

A.—Thippia and Basappa of Rampur are to be examined. They say that I and Dodda Thimma,

were kept at Rampur for 5 or 6 days after the murder. They further told me that the deceased had been to Agnikonda on Wednesday about more than 3 months ago.

Q.—Have you anything more to say?

A.—I have nothing more to say.

Left thumb mark of 1st accused Devappa. (He says he does not know how to write, though he has signed exhibit P2.)

Certified that the above examination of Devappa 1st accused, was taken in my presence and in my hearing and that the record contains full and true account of the statement made by the said Devappa.

(Signed) B. Nagappa,
Sessions Judge.

Dated the 3rd day of December 1917

IN THE COURT OF SESSIONS,
SHIMOGA DIVISION.

Chitaldrug Sessions Case No. 6 of 1917—18.

Name of 2nd accused—Thimmakka.

Age—About 30 or 35.

Race, Religion—Lingayet.

Father's name—Basappa.

Residence—Vitlapur.

Occupation—Agriculture.

Q.—Have you given the statement exhibit P11 before the lower Court?

A.—Yes.

Q.- Have you given the confession exhibit P12 before the Amildar Magistrate of Challakere ?

A.—I have made the confession for the Police caught hold of my tuft of hair and threatened to prick me with a needle in my private part. They told me that my brother had confessed and that I should say the same.

Q.—Where was this ?

A.—This was at Rampur Station. I cannot give either the day of the week or the month when this occurred.

Q —Can you give the names of persons who told you like that ?

A —Both the Jamadar and Daffadar of Molakalmuru told me this.

Q.—Why did you not say this before the Magistrate ?

A.—I was afraid to say this before him as I was asked not to say this.

Q.—Did your Lawyer see you before this ?

A.—Yes. My Lawyer saw me in District lock-up here about a month ago. I did not complain to him about this. Neither have I told him to prefer any complaint of ill-treatment ?

Q.—Have you any witnesses ?

A.—No. There were none at the lock-up when this occurred.

Q.—Have you any witnesses to prove ill-will between you and your brother ?

A.—No.

Q.—Have you anything more to say ?

A.—No.

Q.—Where were you taken after you surrendered to the Police at Molakalmuru ?

A.—I and my brother were taken to Challakere from Molakalmuru. We left Molakalmuru at about sunset on the day that we surrendered and reached Challakere at about 2 p. m. on the following day. On the day after we reached Challakere, we were taken before Amildar Magistrate. It was on that day our confessions were recorded. We were then taken back to Molakalmuru.

[Note.—The accused says that she did not surrender herself before the Police Inspector and Amildar at Molakalmuru. Neither her brother the approver surrendered himself with me at Molakalmuru. She says that her brother was arrested and brought to Rampur. Then they both went Molakalmuru.

Q.—When were you taken to Rampur ?

A.—I cannot say when I was taken.

Q.—Have you any witnesses to say that you were arrested and taken from Vitlapur ?

A.—No.

Q.—Have you witnesses to say that you were kept at Rampur ?

A.—No.

Q.—Have you any witnesses to be examined ?

A.—No.

Q.—Have you anything more to say ?

A.—No.

Left thumb mark of Thimmakka.

Certified that the above examination of Thimmakka, 2nd accused, was taken in my presence and in my hearing and that the record contains full and true account of the statement made by the said Thimmakka.

(Signed) B. Nagappa,
Sessions Judge.

Dated the 3rd day of December 1917.

IN THE COURT OF SESSIONS, SHIMOGA DIVISION.

Chitaldroog Sessions Case No. 6 of 1917—18.

Name of 3rd accused—Thimmappa.

Age—35.

Race, Religion—Lingayet.

Father's name—Thimmappa.

Residence—Vitlapur.

Occupation—Agriculture.

Q.—Have you given the statement exhibit P13 before the lower Court ?

A.—Yes.

Q.—Have you given the confession exhibit P14 before the Amildar Magistrate of Challakere ?

A.—I have not given this statement before the Amildar Magistrate.

Q.—Have you anything more to say ?

A.—I have nothing moreto say.

Q.—When were you arrested by the Police ?

A.—I was arrested about 10 or 12 days after the Agnikonda which took at Rampur on a Wednesday. I was brought to Molakalmuru and kept there for two days. Then I was taken to Challakere.

Q.—What happened at Challakere ?

A.—I was kept at Challakere lock-up for a night. On that night, I was handcuffed. Some Policeman whose name I do not know threatened to prick my private parts with a needle. I was taken on the next morning before the Amildar Magistrate. Before him I stated what I was told to say?

Q.—Why did you not say this before the Magistrate ?

A.—I was afraid that I would be beaten again. So, I did not say.

Q.—Have you informed this to anyone ?

A.—No.

Q.—Did you inform this to your Lawyer ?

A.—I told him before the Committing Magistrate. I asked him to prefer a complaint about it.

Q.—Have you complained ?

A.—No. I did not tell my Lawyer to prefer any complaint.

Q.—Have you produced Art. No. 2 before the Police ?

A.—Yes.

Q.—Were there any blood stains on it ?

A.—Yes. They were due to itch.

Q.—Did you inform this to the panchayetdars when Art. No. 2 was seized ?

A.—Yes.

Q.—Have you any witnesses to that effect ?

A.—No.

Q.—Have you any witnesses now to be examined ?

A.—No.

Left thumb mark of Thimmappa.

Certified that the above examination of Thimmappa 3rd accused was taken in my presence and in

my hearing and that the record contains full and true account of the statement made by the said 3rd accused Thimmappa.

(Signed) B. Nagappa,
Sessions Judge,
Shimoga Division.

Dated 3rd day of December 1917.

Deposition of Basappa, 1st witness for defence, taken on affirmation on this 3rd day of December 1917.

I had not seen the deceased Bedar Thimmaga at any time. I do not know the 1st accused.

Cross-examination.—Nil.

By the Court.—I did not see the 1st accused or Doddathimmappa at Rampur on Agnikonda day. On Wednesday night about 3 months ago Agnikonda took place in my village. I pay an assessment of Rs. 20.

Read over, interpreted and admitted to be correct.

(Signed) B. Nagappa,
Sessions Judge.

3—12—1917.

'Copy.'

(Signed) S. V. Sanjeeviah,
Sheristadar.

EXHIBIT P1.

IN THE COURT OF SESSIONS, SHIMOGA DIVISION.

Chitaldrug Sessions Case No. 6 of 1917—18.

Name of the accused—Thippayya.

Age—25 years.

Race—Nadu Vakkaligar.

Father's name—Basappa.

Residence—Obalapur.

Taluk—Molakalmuru.

Occupation—Agriculture.

Q.—Why have you come here?

A.—I have come to give my statement.

Q—How much time has passed after your coming into Court?

A.—Half an hour might have passed.

Q.—Are there Policemen around (you).

A.—No.

Q—Are you afraid of any one?

A.—No.

Q—Have anybody held out any promise to you?

A.—No.

Q.—Then do you state that which is within your knowledge?

A.—Yes, I shall state.

Q.—Then, go on.

A.—About 20 days back, on a Monday, I went to Vitlapur to console my sister and uncle (ಮಾವ) on the death of my sister. I was returning after having spoken to my uncle. Then Mandi Devappa and my sister Thimmakka were both sitting on the threshold. I was going. They asked me to go there and take my seat. I went and sat there. Devappa and my sister both said to me that they would tell me something, and that I should accomplish their work. I said that it did not lie in me to do it but that it depended upon the will of God. Then Devappa told me that Byadar boy Thimmaga was abusing him while drunk saying that he had kept his wife's sister, and that he would spoil his caste by beating him with shoe if he should come out and asked me to take him somehow to the forest and there murder him. I said that it would be late and that I would go and speak to my sister Galavva in the field. So, I went and spoke with my sister and was returning. Then the said Devappa and Thimmakka were waiting on the way leading to my village. We all three passed a little distance from the village together. There was a bhond (boundary mark). We sat there. They again asked me to achieve what they had already spoken to me. I said that it was difficult to murder a man. They said that he was damaging their reputation and that we should all co-operate to effect his death at any cost. Thus they pressed me. I said that it was late that day to speak more and asked them to go to Devasamudra Shandy on Tuesday and told them that I would also go there and that we might talk over the matter. I went to my village.

Q.—What happened next ?

A.—The next day on Tuesday I went to Devasamudra Shandy after taking my meals. Devappa and Thimmakka had also come. We conversed together near the school. I asked them how they would send the Bedar Boy Thimmaga. Then Devappa and Thimmakka said that they would represent to him that Thippia (i. e., myself) had poison with him (me) and that they would ask him to bring it to poison Devappa in order to kill him, they said that they would also send their son-in-law Thimmia with me. I said that I would be near the irrigating well (ಕಬಲೆಭಾವಿ) in our village and asked them to send him to me and went away. I returned to my village. Having taken my

meals in the night I went near the well and waited there for sometime (ಕಾಸು). There was a heavy down pour of rain and I went home. Nobody came that day

Q.—What happened afterwards ?

A.—On Wednesday my relatives came from Rampur and took my wife and children to witness fire dance (ಅಗ್ನಿಕೊಂಡ) there. Having taken my meals that night, I slept on the pial of my house. When the village was still, Thimmappa the son-in-law of Thimmakka came to woke me up. He said that it rained the previous day and that he had brought Thimmaga that day and seated him near the irrigating well. I went in to my house and picked up an axe which was lying in a corner and handed it to Thimmia. He hid it in his sheet (ಹಪ್ಪಡ) under his arm. We both went near the well. There the deceased Thimmaga was sitting. I said to him that they had promised to go there the previous day and that they did not turn up, that the druggist had gone to Konapur and that I would get the preparation (poison) there. We all three went along the path leading to Konapur. I went in front and the deceased followed me next. Behind him was Thimmia. Having gone some distance, we left the path. The deceased Thimmaga ran a thorn into his leg. He asked us why we were leaving the path and leading him into a thorny place. I said that we took this turn as there were ferocious dogs in the Kurbar hatti a little distance up. After going some distance we joined the road. We walked some distance. I then asked Thimmia for chunam. I gave signal to him by pressing his fingers. We proceeded. But still Thimmia did not take the hint. I then sat to answer calls of nature and got up and asked Thimmia for the tobacco. Pretending to take tobacco I pressed his hand hard. I went in front. Then Thimmia dealt a blow with the axe on the neck of the deceased Thimmaga. He reeled crying " Ayyo....Appa." I turned round and saw, when Thimmia dealt another blow to the deceased, who then fell on the floor. Immediately he gave two more blows. I asked him whether life was extinct. Thimmia bending down saw the body and said that life was gone. I asked him to come along, and we passed four paces. Then Thimmia said that we should take the head of the deceased and bury the same somewhere. I consented Thimmia again went and gave 3 or 4 blows. My legs and hands began to tremble. I asked him to come. We were returning. We found

water on the way. Thimmia washed the axe in the water and handed over the same to me. I too washed it to some extent. He washed his legs and hands. Then I gave the axe to the hands of Thimmia. We went along the path and came to Oblapur. Thimmia called me to accompany him saying that he could not alone go to Vitlapur. I told him to go alone as there were none near my house. He said that he could not go alone. I then sent my paid servant with him. I told my servant that they would give an ox in the morning and asked him to bring the same. I went home and slept.

Having been read over, I have admitted the same to be correct.

(Signed) Thippayya.

(Signed) K. Vedantiengar,
2nd Class Magistrate.

8—9—17.

I believe that this confession was voluntarily made. It was taken by me in my presence and hearing and was read over to the person making it and admitted by him to be correct and it contains a full and true account of the statement made by him.

(Signed) K. Vedantiengar,
2nd Class Magistrate.

8-9—17.

EXHIBIT P2.

Dated 16—7—17.

To

The Officer in Charge of the
Rampur Police Station.

Report of the Patel of Vitlapur.

Our village ryot Mandi Devappa complained to me at 7 p. m. on the 16th July 1917, as follows :—

" On the night of the 9th instant, School-master Gangia was playing on the violin in our house. I was hearing it. Kundoor Dodda Thimmappa was also present. This being so Thalvar Thimmaga and Bud-

dappa's son Thippaga both came and sat very close to Gangia. I told them that it was not gentlemanly and befitting them to sit like that not knowing the least difference that they were Sivachar people. As soon as I said so they got down the pial and went away. After some time we slept. The next morning I led my bullocks to let water to my garden lands on which had grown onion and Jolam crops. On going there I found Kapilebille, Hireholay and Chikholay—Kapile articles which used to remain there missing. On going round on all wells to enquire and request somebody to lend these articles, which, I thought, I could put on my well and get through the work I found one Hirayholay in Thalawar Nagappa's Kapile well. As it was my own I thought that Chickaholay and Billay also might be in the same well and therefore asked Naikar Sanjeeva's son Balaga to dive into the well. In reply he said that they were not there and asked me why I was searching in vain and said that they have gone in a different direction. When I enquired what it is he said that Thimmaga had brought the Billay to keep in the hay-stack belonging to Sanna Thippia's son Sannavanu, that Sannavanu seeing it asked Thimmaga not to keep them there as they were poor people and that they may be brought to trouble. Immediately he took it elsewhere. Balaga told me all this saying that Sannavanu told him so. As he said so I sent for Sannavanu and enquired. Sannavanu said that it was true that Thimmaga had brought the Billay. I said I would report the matter. On the morning of the 15th I found that the Billay was lying in the place where my garden and Thalawar Nagappa's garden join each other. This has occurred on the night of the 9th. They have passed stools in the pot used for drinking purposes and which was lying on the brink of the well." The Kapilebillay found out is with me. I have brought the facts to your notice, sir.

(Signed) Patel Muddabasappa's
son Hiradalappa.

(Signed) Mandi Devappa.

Received.—

16—7—17 at 10 a. m.

through Begar Kadaga and Bharmaga.

(Signed) Syed Khaja Husein,

Writer.

For the information of the Rampur Range Jamadar.

(Signed) Syed Khaja Husein,

Writer.

Received.—

17—7—17 at 8 a. m.

To Molakalmuru Camp—

First information report under Section 379 I. P. C. As the Daffedar is not present, you better sign the first information report and send it to Kasba head station.

(Signed)

Jamadar.

No. 1 F. I. R. is attached. Received through Constable No. 546 at 8 a.m.

(Signed) Syed, &c. on 18—7—11.

(Signed) Syed Khaja Husein.

N. B.—Observe the state of all the organs and, when no disease or injury is found, write "Healthy."

1. External Appearance.

(1) Condition of subject, stout, emaciated, decomposed, etc.	(2) Wounds: position, size character.	(3) Bruises: position, size, nature.	(4) Mark of ligature, on neck, dissection, etc.
Stout and strong healthy subject. Right eye shut. Left eye slightly opened. Lips open. Teeth closed. Body slightly swollen. The length of the body is 5 ft. and 4½ inches.	1. One incised wound on the back of the left wrist measuring 4 inches in length, breadth ¼th of an inch and depth ¾ths of an inch. The muscles and vessels cut, 3 carpal bones cut. The direction of the wound transverse. 2 Another incised wound on the back of the left shoulder joint measuring 1½ inch in length, ½ inch in breadth, and depth ¼th of an inch. The direction of the wound was transverse. 3. Another incised wound one inch		

70(a) to 70(c)

EXHIBIT P3.

MYSORE MEDICAL DEPARTMENT.

FORM No. XVII—POST MORTEM REPORT.

Station—Kudlaguddah (Camp).

Date 24—8—17.

Name.	Sex	Age	Caste	Whence brought, village, tannah	Date and hour of		
					Despatch	Receipt	Examination
Thimmiga	Male	About 25 years.	Nayaker	Kudlaguddah, Rampur Station.		4 p. m. 24-8-17.	4 10 p. m. 24—8—17.

Information furnished by Police.

Said to have murdered. The Inquest report along with its English translation is herewith attached.

$2\frac{1}{2}$ inches in length, breadth $\frac{1}{4}$ of an inch and depth one-third of an inch. The muscles and vessels cut. The direction of the wound oblique.

8. Below the wound No. 7 another incised wound (below the left lower jaw) measuring $2\frac{3}{4}$ of an inch in length, breadth $1\frac{1}{4}$ of an inch and depth $\frac{3}{4}$ of an inch touching to the bone. The muscles and vessels cut. The direction of the wound oblique.

9. Below the wound No. 8, another incised wound measuring $2\frac{1}{4}$ of an inch in length, breadth $\frac{1}{2}$ an inch and depth $\frac{3}{4}$ of an inch. The muscles and vessels cut. The direction of the wound oblique.

10. Another incised wound in front of the right neck right side leading towards the right ear measuring 3 inches in length, $\frac{3}{4}$ of an inch in breadth and depth $1\frac{1}{4}$ of an inch. The muscles and vessels cut. The direction of the wound oblique.

(Signed) M. Nanjundiah,
1st Class Sub-Assistant Surgeon.
24—8—17.

EXHIBIT P3.—*(Continued).*

1. External Appearance.

(1) Condition of subject, stout, emaciated, decomposed, etc.	(2) Wounds: position, size, character.	(3) Bruises: position, size, nature.	(4) Mark of ligature, on neck, dissection, etc.
	below the lower lobe of the left ear measuring 1½ inch in length, one-third of an inch in breadth, and depth half an inch. The muscles and vessels cut. The direction of the wound transverse. 4. Another incised wound below the wound No. 3 measuring 2¼ inches in length, ½ an inch breadth and depth one and one-third of an inch. The muscles and vessels cut. The direction of the wound transverse. 5. Another incised wound on the back of the left side of the neck measuring 1¼ inch in length, ¾ of an inch in breadth and depth 1¼ of an inch The muscles and vessels cut. The direction of the wound oblique. 6. Another incised wound below the left cheek measuring 2¼ inches in length, ½ an inch in breadth, and depth one-third of an inch. The muscles and vessels cut. The direction of the wound oblique. 7. Below the wound No. 6 an-		

(IV) Abdomen

(1) Walls	(2) Peritoneum	(3) Mouth, pharynx and œsophagus	(4) Stomach and its contents	(5) Small intestine and its contents	(6) Large intestine and its contents	(7) Liver	(8) Spleen.
Healthy	Healthy	Healthy	Contains half digested food and fluid	Healthy Contains gass and foces	Healthy	Healthy	Healthy

(II) Cranium and Spinal Canal.

(1) Skull and vertebræ	(2) Membranes	(3) Brain and spinal cord
Entire Healthy	Healthy.	Healthy Spinal cord not examined.

Note.—The spinal canal need not be examined unless an indication of disease or injury exists.

(III) Thorax.

(1) Walls, ribs and cartilages.	(2) Pleuræ.	(3) Larynx and trachea	(4) Right lung	5) Left lung	(6) Pericardium	(7) Heart	(8) Large vessels
Healthy.	Congested	Congested	Healthy	Healthy	Healthy	Empty	Empty

More detailed description of injury or disease.

All the wounds have been described in their respective columns. The muscles and vessels of the neck and wrist cut. 3 left wrist carpal bones cut. The contents of the stomach was on the external surface of the wounds described above. Fœces in the Anus. The larynx and trachia congested ; pleuræ congested. The length of the body is 5 ft. and $4\frac{1}{2}$ inches.

Opinion as to cause of death.

Under these circumstances, the death is due to Hemorrhage, (Hæmorrhage), the result of several iniuries on the neck caused by a sharp instrument. A brutal murder.

Countersigned

(Signed) .....,

District Medical Officer,

Chitaldrug.

Molakalmuru,

24—8—17.

28—8—17.

Recd. 30—8—17.

(Signed) M. Nanjundiah,

1st Class Sub-Asst. Surgeon.

(V) Genito-Urinary Organs

(1) Kidneys.	(2) Bladder.	(3) Organs of generation, external and internal.
Healthy	Empty.	Healthy Fœces in the Anus.

(VI) Muscles, Bones and Joints.

(1) Injury.	(2) Disease or deformity.	(3) Fracture.	(4) Dislocation.
All the neck muscles and vessels cut and also the muscles of the left wrist cut.	Nil	3 left wrist carpal bones cut	Nil

N. B.—Observe the state of all the organs and, when no disease or injury is found, write "Healthy."

1. External Appearance.

(1) Condition of subject, stout, emaciated, decomposed, etc.	(2) Wounds : position, size character.	(3) Bruises: position, size, nature.	(4) Mark of ligature, on neck, dissection, etc.
Stout and strong healthy subject. Right eye shut. Left eye slightly opened. Lips open. Teeth closed. Body slightly swollen. The length of the body is 5 ft and $4\frac{1}{2}$ inches.	1. One incised wound on the back of the left wrist measuring 4 inches in length, breadth $\frac{1}{4}$th of an inch and depth $\frac{3}{4}$ths of an inch. The muscles and vessels cut, 3 carpal bones cut. The direction of the wound transverse. 2. Another incised wound on the back of the left shoulder joint measuring $1\frac{1}{2}$ inch in length, $\frac{1}{2}$ inch in breadth, and depth $\frac{1}{4}$th of an inch. The direction of the wound was transverse. 3. Another incised wound one inch		

70(M, TO 70(O)

MYSORE MEDICAL DEPARTMENT.

FORM NO. XVII—POST MORTEM REPORT.

Station—Kudlaguddah (Camp).

Date 24—8—17.

Name.	Sex	Age	Caste	Whence brought, village, tannah	Date and hour of		
					Despatch	Receipt	Examination
Thimmiga	Male	About 25 years.	Nayaker	Kudlaguddah, Rampur Station		4 p. m. 24 8—17.	4 10 p. m. 24—8—17.

Information furnished by Police.

Said to have murdered. The Inquest report along with its English translation is herewith attached.

7. Below the wound No. 6 another incised wound measuring 2½ inches in length, breadth ¼ of an inch and depth one-third of an inch. The muscles and vessels cut. The direction of the wound oblique.

8. Below the wound No. 7 another incised wound (below the left lower jaw) measuring 2¾ of an inch in length, breadth 1¼ of an inch and depth ¾ of an inch touching to the bone. The muscles and vessels cut. The direction of the wound oblique.

9. Below the wound No. 8, another incised wound measuring 2¼ of an inch in length, breadth ½ an inch and depth ¾ of an inch. The muscles and vessels cut. The direction of the wound oblique.

10. Another incised wound in front of the right neck right side leading towards the right ear measuring 3 inches in length, ¾ of an inch in breadth and depth 1¼ of an inch. The muscles and vessels cut. The direction of the wound oblique.

(Signed) M. Nanjundiah,
1st Class Sub-Assistant Surgeon.
24—8—17.

1. External Appearance.—*(Continued)*.

(1) Condition of subject, stout, emaciated, decomposed, etc.	(2) Wounds: position, size, character.	(3) Bruises: position, size, nature.	(4) Mark of ligature, on neck, dissection, etc.
	below the lower lobe of the left ear measuring 1½ inch in length, one-third of an inch in breadth, and depth half an inch. The muscles and vessels cut. The direction of the wound transverse. 4. Another incised wound below the wound No. 3 measuring 2¼ inches in length, ½ an inch breadth and depth one and one-third of an inch. The muscles and vessels cut. The direction of the wound transverse. 5. Another incised wound on the back of the left side of the neck measuring 1¼ inch in length, ¾ of an inch in breadth and depth 1¼ of an inch The muscles and vessels cut. The direction of the wound oblique. 6. Another incised wound below the left cheek measuring 2¼ inches in length, ½ an inch in breadth, and depth one-third of an inch. The muscles and vessels cut. The		

(IV) Abdomen

(1) Walls	(2) Peritoneum	(3) Mouth, pharynx and œsophagus	(4) Stomach and its contents	(5) Small intestine and its contents	(6) Large intestine and its contents	(7) Liver	(8) Spleen.
Healthy	Healthy	Healthy	Contains half digested food and fluid Healthy	Healthy Contains gass and fœces	Healthy	Healthy	Healthy

(II) Cranium and Spinal Canal.

(1) Skull and vertebræ	(2) Membranes	(3) Brain and spinal cord
Entire Healthy	Healthy.	Healthy Spinal cord not examined.

Note.—The spinal canal need not be examined unless an indication of disease or injury exists.

(III) Thorax.

(1) Walls, ribs and cartilages.	(2) Pleuræ.	(3) Larynx and trachea	(4) Right lung	(5) Left lung	(6) Pericardium	(7) Heart	(8) Large vessels
Healthy.	Congested,	Congested	Healthy	Healthy	Healthy	Empty	Empty

More detailed description of injury or disease.

All the wounds have been described in their respective columns. The muscles and vessels of the neck and wrist cut. 3 left wrist carpal bones cut. The contents of the stomach was on the external surface of the wounds described above. Fœces in the Anus. The larynx and trachia congested; pleuræ congested. The length of the body is 5 ft. and $4\frac{1}{2}$ inches.

Opinion as to cause of death.

Under these circumstances, the death is due to Hemorrhage, the result of several injuries on the neck caused by a sharp instrument. A brutal murder.

Molakalmuru,
24—8—17.

(Signed) M. Nanjundiah,
1st Class Sub-Asst. Surgeon.

A

(V) Genito-Urinary Organs

(1) Kidneys.	(2) Bladder.	(3) Organs of generation, external and internal.
Healthy	Empty.	Healthy Fœces in the Anus.

(VI) Muscles, Bones and Joints.

(1) Injury.	(2) Disease or deformity.	(3) Fracture.	(4) Dislocation.
All the neck muscles and vessels cut and also the muscles of the left wrist cut.	Nil	3 left carpal bones cut	Nil

EXHIBIT P4.

To

The Office of the Jamedar of Rampur Range.

Report of Patel Miyasab, Patel of Bommakkanahalli of the said range.

At about 12 noon to-day 23—8—17 the cowherds of our village reported to me that some one is lying dead in the old cart track behind Kuclugudda. Myself and Begars Latchmaga, Hulaga, Hanumantha and Sanna Honnuraga and others went and saw the corpse. We saw three wounds on the left side of the neck caused by some weapon. On the right side of the neck blood has clotted and therefore we cannot see any wounds there. On the left palm of the corpse we also found a blow. The corpse is lying with head towards the east and legs towards the west.

Identification marks on the corpse.

The face is round. In the right ear at the top there is a Meti Mura. In both the ears there are (కమ్మలు) Hattonties. The corpse is covered with a coat of green with white stripes. An almost old Mull Panche of black border is tied up to the loins. There is a Dupati or Hachada lying underneath the head. Blood has collected in great quantity and clotted on the Hatchada. The hair on the head is cropped and trimmed. Some hair has dropped down and fallen on the pillow. The corpse is of a man of short stature of about 24 or 25 years. I request you will kindly go here for inspection. Myself and Begars named above and Thammanahalli Police Constable Goodusabi No. 333 are all keeping watch over the dead body. We cannot identify this dead body. We request you will kindly go here and find out the truth on examination.

School-master Venkappa has written

for mark of Patel Miyasab.

Exhibits P5(a) and P5(b).

PHOTOS OF THE DECEASED (SEPARATELY FILED).

EXHIBIT P6.

THE PUBLIC HEALTH INSTITUTE,
BANGALORE.

1917.

From

The Chemical Examiner,
To the Government of Mysore,
Bangalore.

To

The Superintendent of Police,
Chitaldroog.

Dated } 7th September 1917.
Despatched }
Received
General No. 674.

No.

Enclosure No. 1.

Reference :—Your No. 89, dated 5th September 1917.
Sir,

I have the honour to acknowledge receipt of the parcel referred to in the above and to state that

the seals corresponded with the sample sent.

2. The undermentioned substances received were duly analysed with the following result :—

Stains on a 'panchay'—Detected Mammalian blood.

The article is returned.

I have the honour to be,
Sir,
Your most obedient servant,
(Signed).....
Assistant Chemical Examiner.

Exhibits P7, P8 and P9.

Sketches of places (separately filed.)

EXHIBIT P10.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Case No. 17 of 1917—18.

Name of accused—Mandi Devappa.

Age.—45.

Race, Religion—Lingayet.

Father's name—Hanumanthappa.

Resident of—Vitlapur.

Occupation—Agriculture.

Q.—You have heard what all prosecution witnesses have stated. Have you done so?

A.—I have not seen anything. Witnesses depose against me through ill-will.

Certificate &c.

Read over and admitted correct.

Left thumb mark of Mandi Devappa.

Certificate, &c.

(Signed) T. V. A. Iswaran,
1st Class Magistrate.

8—10—17.

After charge.

Q.—You have heard the charge just read out. Have you witnesses for your defence?

A.—I did not get Vitlapur Thimmaga murdered. I am innocent. I do not know anything.

Read over and admitted.

Left thumb mark of Mandi Devappa,

Certificate, &c.

(Signed) T. V. A. Iswaran,
1st Class Magistrate.

8—10—1917.

EXHIBIT P11.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Case No. 17 of 1917—18.

Name of 2nd accused—Thimmakka.

Age—30.

Race, Religion—Lingayet.

Father's name—Basappa.

Resident of—Vitlapur.

Occupation—Agriculture.

Q.—You have heard what all prosecution witnesses have stated. Did you do so?

A.—I do not know anything. The Police kept me in Rampur station and forced me. They dragged my hair and came to insert a needle into my private parts, and threatened and tutored me to say as stated by my brother. Therefore I stated before the Amildar as stated by him. (Amildar Magistrate of Challakere). I heard the statement (exhibit P 8) just read to me. I

have deposed before the Challakere Amildar like this. The Police had tutored me to say so. So, I have deposed before him. There is ill-will between me and my brother. So he deposes against us like this. There is ill-will between me and my brother on account of my stopping with Devappa.

Read over and admitted.

Left thumb mark of Thimmakka.

(Initialled) T. V. A. I.

8—10—17.

After charge.

Q.—You have heard the charge just read out. Have you witnesses for your defence?

A.—I do not know anything. I have not done anything wrong.

Read and admitted correct.

Left thumb mark of Thimmakka.

(Initialled) T. V. A. I.

Certificate, &c.

(Signed) T. V. A. Iswaran,
1st Class Magistrate.

8—10—17.

EXHIBIT P12.

IN THE COURT OF THE 2ND CLASS MAGISTRATE, CHALLAKERE.

Name of accused—Mandi Thimmavva.

Age—35.

Race, Religion—Naradi Vakkaligar.

Father's name—Basappa.

Resident of—Vitlapur.

Taluk—Molakalmuru.

Occupation—Agriculture.

Q.—Why have you come here now ?

A.—I have come here to state what I know of a murder case that occurred near Konapur.

Q.—What time is it since you entered this Court?

A.—It may be half an hour since I entered this Court.

Q.—Are there any Policemen anywhere aroud you ?

A.—No.

Q.—Are you afraid of any one ?

A.—No.

Q.—Has anyone promised you anything ?

A.—No.

Q.—Do you state true facts that have come to your knowledge ?

A.—Yes, I do.

Q.—Then state what you have seen.

A.—My native place is Obalapura of Molakalmuru Taluk. I was given in marriage to a place called Vaddu in British Territory. My husband died about 4 years ago. I have got a son aged 11 years. I have a daughter aged 14 years. I gave this daughter in marriage to one Thimmaiya, nephew of Mandi Devappa of Vitlapur about 6 years ago. I have left my son for education at Vitlapur in Mandi Devappa's house. I move about between Vitlapur and my place Vaddu. I have been stopping at Vitlapur for the last two months.

Q.—What happened further?

A.—I had heard that Devappa had beaten the deceased Thimmaga with a sandal. On account of this the deceased used to drink and was abusing Devappa for the last two months. Devappa has a widowed niece living in his house. The deceased Thimma was saying in the streets that he had kept that woman and that he would beat Devappa with a shoe. The said Devappa said to me and my brother Obalapur Thippaiya and conspired with us. "We are Lingayets. The deceased Thimmaga is a Bedar by caste. He is disgracing us. We must murder him".

Q.—What happened afterwards?

A.—The deceased Thimmaga was not speaking to Devappa but he was talking to me and my son-in-law Thimmayya. On this account the said Devappa came to us and told us to give the deceased 2 or 4 annas to drink and ask him to go to Obalapur and bring poison to kill Devappa and thus murder him on the way. Previous to this Devappa had informed my brother Thippaiya at Obalapur.

Q.—What did you do afterwards?

A.—On a Wednesday previous to last Wednesday, 15 days ago, at about supper time I sent for the deceased Thimma and told him to go and bring poison from my brother and also to take my son-in-law Thimmayya with him. He consented to go and they both went. I slept away that night. There was much time before dawn. Then Devappa brought my son-in-law to the old house in the village. My son-in-law roused me from my sleep. Devappa struck a match. Then my

son-in-law informed us that he took the deceased, made him to sit in the garden of Obalapur Thippaiya, that they all went to Konapur jungle and that they murdered the deceased Thimmaga with an axe. The next Thursday after this myself and my son-in-law went to the train to have my house repaired at Vaddu, staying there one week and when I returned on Thursday and passed through Bellary we heard that warrants were out for our arrest as having concerned in the murder. We went to Molakalmuru, i. e., myself and my brother went. My son-in-law had already come.

Read over and admitted.

Left thumb mark of Thimmavva.

(Signed) K. Vedantiengar,
2nd Class Magistrate.

8—9—17.

I believe that the confession was voluntarily made. It was taken by me in my presence and hearing and was read over to the person making it and admitted by her to be correct, and it contains a full and true account of the statement made by her.

(Signed) K. Vedantiengar,
2nd Class Magistrate,
Challakere.

8—9—1917.

EXHIBIT P13.

IN THE COURT OF THE 1ST CLASS MAGISTRATE.

Case No. 17 of 1917—18.

Name of 3rd accused—Thimmappa.

Age—35.

Race, Religion—Lingayet.

Father's name—Thimmappa.

Resident of—Vitlapur.

Occupation—Agriculture.

Q.—You have heard what prosecution witnesses have deposed. Have you done so?

A.—I do not know anything. I heard exhibit P9 read to me. I stayed at home without going anywhere. I cannot understand anything. I do not know what, and before which Amildar I have given my statement. I was beaten and threatened to insert a needle into my private parts. I do not know what I deposed and what I omitted. I have given out what the Police tutored me. There is some enmity between meand Thippia (P. W. 1). There is enmity between him and me on account of my uncle's intimacy with his sister. Myself and the deceased were not enemies.

Read over and admitted.

Left thumb mark of Thimmappa.

(Initialled) T. V. A. I.,
Magistrate.

8—10—17.

After charge.

Q.—You have heard the charge read over to you. Have you witnesses for defence ?

A.—I am innocent. I do not know anything.

Left thumb mark of Thimmakka.

(Initialled) T. V. A. I.

Certificate, &c.

(Signed) T. V. A. Iswaran,
1st Class Magistrate.

8—10—17.

EXHIBIT P14.

IN THE COURT OF THE 2ND CLASS MAGISTRATE OF CHALLAKERE TALUK.

Name of accused—Thimmappa.

Age—30.

Race, religion—Naradi Vakkaligar.

Father's name—Thimmappa.
Resident of Vitlapura, Molakalmuru Taluk.

Occupation—Agriculture.

Q.—Why have you come here ?

A.—I have come here as I have committed a murder.

Q.—What is the time after you entered the Court?

A.—It is half an hour since I entered this Court.

Q.—Are there Policemen around you ?

A.—No.

Q.—Are you not afraid of Policemen ?

A.—No.

Q.—Have you been influenced by any one ?

A.—No.

Q.—Do you without fear and without any aim state what you saw ?

A.—Yes, I do state.

My father had married Mandi Devappa's sister and stopped in his house for managing the property. Myself, my brother and mother all live there only. My father died 10 years ago. In my uncle Devappa's Kapile there was a theft of piccotta wheel and Holay about 2 months ago. On enquiry it was ascertained that the deceased Thimma, Thippiga and Sannonu had stolen them. Then my uncle and his uncle Nagappa sent for the deceased to our Kapale and beat him with sandal and taught him a lesson. They also reported to the Rampur Police. I do not know what became of it. The deceased Thimmaga was telling my uncle Devappa that he was sent for to our Kapile and was beaten there and that he would beat him with sandal in the bazaar or in the shandy and that he would murder him. My uncle said to me "we are Lingayets. The deceased Thimmaga is a Bedar. He is disgracing us" - and asked me to take him and murder him. I said I am not able to do it. He said "what use is there by your living?" He insisted upon me to go and murder him. On a Wednesday 15 days previous to to-morrow Wednesday he asked me whether I did not yet go and insisted upon me to go. It was 6 p. m. when he said so. My uncle Devappa is very intimate with my mother-in-law. My mother-in-law Thimmakka told me on the evening of Wednesday that she had asked the deceased Thimmaga to go to Obalapur and bring poison to be administered to Devappa to kill, that he does not give the house and lands, and that he has disgraced him also. She informed me that he would also come and asked me to go. I stayed at home after supper. The deceased Thimmaga came to the place where I was and asked me to go with him. We both started. We reached Obalapur at 12 midnight I made the deceased Thimma to sit in Obalapur Thippiga's Kapile. I went into the village. Thippiga was in his house. I asked him to get up. He went in and brought an axe. Myself and Thippiga both came to the Kapile. Then Thippiga said that poison was not available there and asked us to go to Konapur. Myself, Thippiga and Thimma (the deceased) all started. Thippiga went in advance, the deceased Thimma followed him and I followed the deceased Thimma behind. We went in the path leading to Konapur. Thippiga asked me for betel leaves and made signs to me to beat. I did not

beat. We went a little further. Thippiga sat down to ease himself and asked me to give him tobacco. Then he caught hold of my hand and made signs. I went a little further and attempted to beat him. My mind did not permit me to beat him (ಹೊಡೆಯುವಿಕ್ಕೆ ಕೈಬರಲಿಲ್ಲ) for I was not able to beat him. On going a little more distance, first I gave two blows on the neck of the deceased Thimma while he was going with the axe which Thippiga had given to my hands in his house. Thimma fell down. I do not know how many blows I dealt afterwards. I do not know whether Thimma died instantly. Thippiga led me back. On our way there was water in a stream. We washed our hands and feet and the axe and came to Obalapur. I said I would go to Vitlapur. Thippiga asked me to go. I said I would not go alone. He said he would send a Begar with me and asked me to send him a bullock with the Begar in the morning Myself and Madigar Hanumantha both left Voblapur to Vitlapur and reached Vitlapur before two or three hours before dawn. I asked the Begar to sleep near our new house outside the village when I myself went into the village and informed my uncle Devappa of the above particulars and slept. The next morning I untied my blood stained Panche and tied up another one, started and reached Badanalu station at 10 a. m. There I took train and went to Vaddu. There I had the house repaired, stopped there for 8 days and returned from there and got down the train at Somlapur station. When I was going near Pennammanahalli the Police Jamadar came and asked me what a bad deed I have done, and so saying he took me to Rampur.

Read over and admitted.

Left thumb mark of Thimmappa.

(Signed) K. Vedantiengar,
2nd Class Magistrate,
Challakere.

4—9—17.

I believe that this confession was voluntarily made. It was taken by me in my presence and hearing and was read over to the person making it and admitted by him to be correct and it contains a full and true account of the statement made by him.

(Signed) K. Vedantiengar,
2nd Class Magistrate,
Challakere.

4—9—17.

MYSORE POLICE DEPARTMENT.

INQUEST REPORT.

On the body of a person found dead in Survey No. 33, waste land of Bommakkanahalli, on the 24th day of August 1917.

N. B.—In framing this report the questions below should be carefully answered. No question should be left unanswered and where information is not available, the same should be explicitly stated.

Questions.	Answers.
1. Deceased's name, sex, age, caste, calling, father's name and residence.	Male, Thimmaga, aged about 25 years, Naiker, calling agriculture, father's name Mariappa, resident of Vitlapur.
2. By whom first found dead, and when ?	By Gangappa, a boy of 12 years, son of Basappa of Bommakkanahalli, yesterday noon.
3. By whom last seen alive. Where and when and whose company ?	By father Mariappa—when the deceased was sleeping alone on the pial of Naradi Vakkaligar Mudiappa—after supper.
4. Height, colour and descriptive marks on the dead body.	Height about 5 feet 4½ inches, brown complexion, round face.

INQUEST REPORT.—*(Continued)*

Questions.	Answers.
5. Married or single ; if a female, was she the only wife ?	Married. Only wife is living.
6. State of corpse ; if any wounds, particulars thereof, and list of all property found on the corpse. (All the parts of the body should be carefully examined and any unusual appearances noted. The length, breadth and depth of wounds should be accurately measured and noted.)	The corpse is lying with head towards the east and legs towards the west with face upwards. The right hand is stretched by the side. The fingers are bent inwards. The left hand is folded and fingers are touching the shoulders. The right eye is closed. The left eye is slightly open. The lips are open. The teeth are set. The corpse is slightly swollen and emitting smell. On the left wrist to the front side of it there is a cut wound running obliquely and measuring 4 inches long and $\frac{1}{4}$ inch broad. The bones are cut. On the hinder part of the left shoulder there is a wound $1\frac{1}{2}$ inch long, $\frac{1}{2}$ inch broad and $\frac{1}{4}$ inch deep. Behind the left ear there is a wound $1\frac{1}{4}$ inch long, $\frac{1}{3}$ inch broad and $\frac{1}{3}$ inch deep. Below this there is a wound $2\frac{1}{4}$ inches long, $\frac{1}{2}$ inch broad and 1 inch deep. Behind the neck and to the right side of this wound there is a wound 3 inches long, $\frac{3}{4}$ inch broad and $1\frac{1}{4}$ inch deep. Below the left cheek there is a wound $2\frac{1}{4}$ inches long, $\frac{1}{2}$ inch broad and $\frac{1}{3}$ inch deep. Below this wound there is a wound $2\frac{1}{4}$ inches long, $\frac{1}{4}$ inch broad. Below the chin there is a wound exposing the bones and measuring $2\frac{3}{4}$ inches long, $1\frac{1}{4}$ in broad. Below this another wound $2\frac{1}{4}$ inches long, $\frac{1}{2}$ inch broad and $\frac{1}{2}$ inch deep. Below the right ear, in front of the neck there is a wound 3 inches long, $\frac{3}{4}$ inch broad and 1 inch deep. The organ of generation is alright. Testicles are swol-

INQUEST REPORT.—*(Continued)*

Questions.	Answers.
	len. The skin over the testicles is pealed off here and there and looks white. The anus is alright and a little quantity of excreta has come out. There is hair on the chest, in the armpit and the private parts. There are long hairs on the head. The hair on the right side of the head has dropped down and the place measures about the size of a palm. There are dry blood stains on the right and left legs. In three places there are marks of abrasions. Undigested food has come out of the wounds on the neck. At the top of the right ear there is a gold Metimura; at the bottom of the ear there is a gold Hattonti (ಹತ್ತೊಂಟಿ of three false pearls. At the bottom of the left ear there is a Hattonti of 4 small false pearls. There is a white Panche of black border tied up to the loins. There are blood marks on this Panche. The banyan of white and green stripes is much stained with blood. Blood has clotted near the neck. There are three stud buttons of cut stones to this banyan. In the pocket there is a little quantity of arecanut. The white Hatchada underneath the head and back is completely soaked with blood and blood has clotted in the middle. There is a red waist thread in the waist to which is tied copper taviz. To the east and south of the corpse hair has dropped down and scattered here and there. There are cut marks of an axe here and there and the cloth is torn. On the banyan worn by the deceased near the neck and above the shoulders there is a mark of a blow from an axe and the cloth is torn. The blood has spread below the Hatchada to a space of $2\frac{1}{2}$ feet by $1\frac{1}{2}$ feet. 1. (Signed) Sha Basappa Thammenahalli. 2. („) School-master Venkappa Rajapura. 3 („) Patel Basappa, Konapur. 4. („) Shanbhogue Basappa for L.T. of Maranaika. (Signed) T. Lakshmiah, Police Inspector.

24—8—17.

INQUEST REPORT.—*(Continued)*

Questions.	Answers.
7. Minute description of exact spot where corpse was found ; if in water, depth thereof.	The corpse is lying in Survey No. 33, waste land belonging to Bommakkanahally in the eastern portion of Koodlugudda at a distance of about 1. furlong from the cart track where carts are generally taken to jungle for fuel.
(a) Is the well public or private property ? If the latter, to whom does it belong ?	There is no well.
(b) Is it near a public road or pathway?	It is not a well.
(c) Has it a parapet wall ?	No.
(d) Footprints, marks of blood or struggle, etc,, near corpse ?	Blood has clotted under the head, back and to the right and left of the head of the corpse.
8. By what relatives body is recognised and their statement shortly given :— blood relatives always to be examined, if there are any.	The deceased's uncle Nagappa and father Mariappa identified the body as the deceased's. The deceased's uncle Nagappa. The deceased is my own

INQUEST REPORT.—*(Continued)*

Questions.	Answers.
	elder brother's son 6 or 7 months ago I had heard that the deceased was keeping a young widow Thimmavva, wife's sister of Devappa of our village. About a month and a half ago Devanna complained that the deceased had stolen the Hireholay and Chikkaholay used for his picotta well. Before this case was enquired into Devanna beat the deceased with a sandal before me in Devanna's field. About 15 days ago the deceased was drunk in the evening and was bawling out in the village gate that though he did not steal the piccotta articles Devanna beat him with a sandal before his uncle in his Kapile, that he will beat him in the village, that he had kept his wife's sister and spent Rs. 30 or 40 for her sake, that she, even then, looking after somebody and that he would beat her also. I advised him not to do so. About 10 days ago Naikara Nandi of our village reported to me that the deceased was bawling out as mentioned above in the village gate and asked me to advise him. I advised him. Again about 8 days ago he was once more bawling out in the village gate, having drunk, in the evening. I advised him again. I had seen him when he returned from Devasamudra Shandy after having drunk in the evening. The deceased was found sleeping on the pial of Naradi Vakkaligar Mudiappa at a distance of 10 Marus from his house on the night of day before yesterday. He was not seen yesterday morning. We searched for him, he was not found. I have identified the body to-day. I see the injuries on the body of the deceased. His coat, Panche, and Hatchada are all covered with blood. He has been murdered. As there was enmity between him and Devanna I suspect that

INQUEST REPORT.—*(Continued)*

Questions.	Answers.
	the deed has been committed through him. The deceased's father Mariappa. The deceased is my eldest son. About 6 months ago I had heard that that the deceased was keeping a widow Thimmavva, sister of the wife of Devanna of our village. About a month and half ago Devanna complained that the deceased had stolen Chikka Holay, Dodda Holay and Kapile wheel of the Kapile well of Devanna. On a certain day 15 days before the report of theft of these articles by the deceased the deceased was saying that he was without reason beaten with a sandal in his Kapile that he has kept his wife's sister and that on this account he has beaten him. He said near my house that he would also beat him. I advised him not to do so. On the evening of the day before yesterday he came drunk from Devasamudra Shandy, took his supper and went away to sleep on Mudiappa's pial. He was not on the pial yesterday morning. I caused a search to be made but he was not found. I have identified the body to-day. I see the wounds on the body. The upper cloth (ಹಚ್ಚೆಡ) coat and Panche are wet with the blood. The deceased has been murdered. The deceased and Devanna were not on good terms. I suspect that the deed has been committed through Devanna. O Left thumb mark of Nagappa, Shanbhogue Basappa has written. O Left thumb mark of Mariappa. Shanbhogue Basappa has written for his mark. (1) Bommakkanahalli village cowherd Gangappa, son of Basappa, aged 12 years :—I came here yesterday noon to graze my cattle. I saw the corpse

INQUEST REPORT.—*(Continued)*

Questions.	Answers.
12. If any persons are suspected, who and why ?	Vitlapur Devanha. On account of the deceased keeping the widowed sister of Devappa'a wife.
13. If corpse is not sent for medical examination, why ?	Sent.
14. If corpse is sent, for what purpose and by whose order and number and name of constable who sent with it.	To ascertain the cause of death. As per orders of the Police Inspector Mr. T. Lakshmia No. 333 Constable Goodu-sabi.
15. By whose orders corpse was buried?	No.
16. Verdict.	The body appears to be cut by a sharp instrument and death has resulted. Cause of death must be ascertained by subjecting the body to medical examination.

INQUEST REPORT.—*(Continued)*

Questions.	Answers.
	and was terrified. I went to the village and reported the matter to the patel and other people. O Left thumb mark of Gangappa. Shanbhogue Basappa has written for his mark. (2) Bommakkanahalli Patel Mujasab:—'Yesterday noon a cowherd boy Rangappa came and informed me that a dead body of a male was lying in the old cart track behind Koodlu Gudda. I went to the spot immediately and got a report of all circumstances the same evening and sent it to Rampur station. As I do not know how to write, and so I have got this written by private school-master Venkappa. O Left thumb mark of Mujasab. Shanbhogue Basappa has written for the mark.
9. Abstract of evidence of other persons examined.	
10. Apparent cause of death.	The cause of death appears to be from blows from a sharp instrument.
11. If by violence apparently, by what weapon?	By a sharp instrument.

INQUEST REPORT.—*(Continued)*

Questions.	Answers.
17. Names, caste, calling and residence of persons composing inquest.	1. Shanbhogue Basappa, Pakanati Nadigar, Shanbhogue, Thammenahalli. 2. Venkappa, Setti Banajigar, private school master, Rajapura. 3. Basappa, Lingayet Patel, Konapura. 4. Maranaika, Myasanaik, agriculture, Konapur.
18. Signatures of Panchayatdars.	1. (Sd.) Shanbhogue Basappa, Thammenahalli. 2. („) School-master Venkappa, Rajapura. 3. („) Patel Basappa, Konapura. 4. O Left thumb mark of Maranaika. Shanbhogue Basappa has written for his mark M. Goodusabi. (Signed) Jamedar. 24—8—17.
19. Inquest Officer's signature and designation. (To be written legibly.)	(Signed) T. Lakshmiah, Police Inspector.
20. If name and residence of deceased be not known, state what steps have been taken to ascertain the same and secure identification. To what stations have proclamations been sent.	Known.
21. Remarks.	

Exhibits D(1) and D(2).

Portions of deposition of approver before the lower Court (Vide page..).

IN THE COURT OF THE ASSISTANT COMMISSIONER AND IST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

This 16th day of October 1917.

Before T. V. A. Iswaran, Esqr., B.A.,
1st Class Magistrate.

Criminal Case No. 17 of 1917—18.

Complainant.	*Vs*	Accused.
Government.		1. Devappa. 2. Thimmakka. 3. Thimmappa. 4. Thippiah.

Order.

While the Inspector of Police of Molakalmuru Taluk was at Rampur on the 23rd of August last, he received a report from the Patel of Bommakkanhalli in which was stated that a body of a male was living in the old cart track leading to Kudlu Gudda with several injuries on the neck, etc. On receipt of this information the Inspector proceeded to the spot and examined the corpse and took up the investigation of the case for an offence under Section 302 I. P. C. His investigation resulted in a charge sheet being placed before this Court on 14—9—17 against four persons, viz, 1. Devappa, 2. Thimmakka, 3. Thimmappa and 4. Thippiah. From the evidence produced by the prosecution the following facts may be gleaned :—

Accused Devappa is a resident of Vitlapur and with him live Thimmakka and Thimmiah the 2nd and 3rd accused respectively. Devappa is one of the

respectable citizens of the village and Thimmakka who is a widow is kept by the 1st accused. In Vitlapur also lived the deceased who was by caste a Naiker while the accused are all Lingayets. The deceased had, it is represented, kept the young sister-in-law of the 1st accused Devappa. On this account, there was some ill-feeling between Devappa and the deceased Thimmaga. Besides Thimmaga appears to have been very much enraged on account of an incident which happened in this wise. From the piccotta well of the accused Devappa a pulley was lost and it was suspected by Devappa that the deceased was the delinquent and he had caused a report to be made to that effect. The case in the hands of the Police was not successfully investigated. There appears to have been some panchayet over the affair and Devappa sent for the deceased to his own field and availed himself of the opportunity to severely thrash the deceased with a shoe. The pulley was however recovered and the thrashing given to the deceased when he was in a helpless corner appears to have so infuriated him, that soon after this incident he vowed in the streets of Vitlapur that he would one day find an opportunity to thrash Devappa with a shoe in the same manner as he was served by Devappa but not in a remote field but in the bazaar of Vitlapur so that all might witness the incident. His idea appears to have been to openly disgrace Devappa. Further, it is stated by the prosecution that the deceased Thimmaga was by mockery and with the object of lowering Devappa in the estimation of others openly saying in the village that he was in no way inferior to Devappa who had kept a woman who on account of her intercourse with a Madiga had been shunned by her own husband and who in consequence had been excommunicated by the Lingayet Guru while he himself (Thimmaga) a Naiker had kept the sister-in-law of the accused Devappa. Accused Devappa very nature ally appears to have taken to heart these vapourings of the braggart Thimmaga and Devappa at the same time felt not a little insulted by this Bedar or Naiker. He set to work to devise a scheme to get rid of the braggart Thimmaga, and Thimmakka was only too willing to join in any plot which would remove Thimmaga, and so these persons put their heads together and involved the following plan. The third accused who is the son-in-law of the second accused was entrusted with the work and to assist him, they sought the services of the 4th accused Thip-

piah who is the brother of the 2nd accused. Devappa and Thimmakka broached the subject of the removal of Thimmaga while Thippiah was on his way to see his sister. Thippiah at first thought that the work was not so easy and he did not readily promise his aid. Again, on his return from his sister the subject was mooted on the same evening. Even then it appears that Thippiah did not give a whole-hearted support. Thippiah asked these persons to meet him the next day at Devasamudra whither he would go to make purchases at the weekly fair. The first and second accused met Thippiah, and Thippiah fell in with the scheme. Devappa and Thimmakka divulged to him that they would send Thimmaga with an errand to bring some 'maddu' (poison) from Kundapur accompanied by Thimmappa. Thimmaga would be told and convinced that the poison was to be given to Devappa who had refused some share of his properties to the third accused and on this account to the knowledge of Thimmaga there was some ill-feeling between Devappa on the one hand and Thimmakka and Thimmappa on the other. They intended to play upon the easy credulity of the deceased and they felt certain that Thimmaga would readily listen to the beseechings of Thimmakka with whom also the deceased was on intimate terms. Thippiah saw that the plot was well conceived and undertook to further the designs of the accused Devappa and his sister Thimmakka and gave his word to wait for the party that night near the piccotta well in his own field. The parties did not turn up as expected and arranged owing to heavy rain. This was on a Tuesday. The next day Thippiah had to send away his wife and children to witness the Agnikunda, at Rampur, while he himself remained at home to tend the cattle. After night fall, Thippiah had his usual supper and laid himself to rest on the pial of his house. Thimmappa appeared after Thippiah had gone to sleep and roused him up and told him that he had brought the Bedar with him and that he was near the piccotta well in the field. After exchanging a few words with Thimmappa inside the house Thippiah gave an axe to him and both went out to carry out the appointed work. Thippiah found the Bedar near the well and spoke to him and led the way. The Bedar Thimmaga followed Thippiah and Thimmappa with the axe, followed the unsuspecting victim. After the party had traversed some distance Thippiah, as agreed

to between himself and Thimmappa, gave a signal to deliver the blow. Thimmappa did not respond, and again after they had gone a few yards Thippiah made other signs again and Thimmappa dealt one blow with the axe on the neck of Thimmaga and followed it with another. Thimmaga staggered and fell. As he fell, two or three blows were delivered. Thimmaga expired, and the murderers retraced their steps towards the village of Thippaiya. The axe was washed on the way back, and Thimmia went to Vitlapur.

Thippiah was examined as first witness for the prosecution after a pardon was tendered to him under Section 337 C. P. C. He also made a statement before the Taluk Magistrate of Challakere on the 8th September 1917 in which he candidly narrated the facts. Even before me he made a most convincing and straight-forward statement. Exhibit P1 is the statement he made before the Taluk Magistrate. The second accused has likewise confessed before the Taluk Magistrate (exhibit P8), and the third accused Thimmia has also made a statement to the same effect (exhibit P9).

The testimony of the prosecution witnesses tends in the main to establish the facts detailed *supra* and I believe there is a good *prima facie* case against the accused Devappa, Thimmakka for an offence under Section 302/109 I. P. C. and against accused Thimmia for an offence under Section 302 I. P. C., and I therefore direct them to take their trial before the Sessions Judge of th e Shimoga Division.

(Signed) T. V. A. Iswaran,
1st Class Magistrate.

Chitaldroog,

10—10—17.

Read out in open Court.

(Signed) T. Chokkanna,
1st Class Magistrate,
Chitaldroog Sub-Division.

16—10—17.

IN THE COURT OF THE ASSISTANT COMMISSIONER AND FIRST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

This 16th day of October 1917.

Before T. V. A. Iswaran, Esqr., B. A.
First Class Magistrate.

Criminal Case No. 17 of 1917—18.

Complainant.	*Vs.*	Accused.
Government.		1. Devappa. 2. Thimmakka. 3. Thimmappa. 4. Thippiah.

Preamble.

1. Witnesses examined for the prosecution—1. Thippiah, 2. Gangappa, 3. Mia Sabi, 4. Naiker Mariappa, 5. Bedar Nagappa, 6. Thimmakka, 7. Mudieppa, 8. Hanumantha, 9. Agasar Basakka, 10. Dodda Basappa, 11. Malur Thippiah, 12. Dod Thimmiah, 13. Naiker Thippiga, 14. Gangiah, 15. Patel Thippanna, 16. Giddau Gowda, 17. Patel Hirdalappa, 18. Madigar Hanumantha, 19. Shanbhogue Dutteppa, 20. Shanbhogue Basappa, 21. Mr. T. Lakshmia Police Inspector, 22. Channabasappa, 23. Ebrahim Police Constable No. 133, 24. Mr. M. Nanjundiah, Sub-Assistant Surgeon, 25. Bedar Thippia alias Sannonu.

2. Exhibits filed for the prosecution:—

Exhibit P1.-Confession statement of the accused Thippiah i. e. Approver or P.W.1.

Exhibit P2.—Bommakkanhalli Patel's report, dated 23—8—17 to the Station House Officer of Rampur.

Exhibit P3.—Vitlapur Patel's report, dated 16—7—17 to the Station House Officer of Rampur.

Exhibit P4 (a).—Photo of the deceased.

Exhibit P4 (b).— do do

Exhibit P5.—Post-mortem certificate.

Exhibit P6.—Chemical Examiner's certificate for having examined Panche Art. 2.

Exhibit P7.—Chemical Examiner's certificate for having examiued an axe Art. 1.

Exhibit P8.—Confession statement of the 2nd accused Thimmakka.

Exhibit P9.—Confession statement of the 3rd accused Thimmappa

3. Articles filed for the prosecution :—

Article 1. Hatchet.

Article 2. Panche of the 3rd accused Thimmappa.

4. Statement of the accused :—

1st accused :—

I have not seen anything. Witnesses have deposed like this owing to ill-feeling between us.

2nd accused :—

I have not seen anything. The Police placed me in the Rampur Police station and compelled me. They pulled me by my hair and threatened me to pierce me with an awl and directed me to say just as my brother said. I have therefore deposed, before the Amildar Magistrate of Challakere in the same manner as my brother did. I heard the statement exhibit P8 read over to me. It is true that I so deposed before the said Amildar Magistrate of Challakere. The Police tutored me to say so, and I did accordingly. Ill-feeling exists between myself and my brother. Therefore that he has deposed against me. This ill-feeling between myself and my brother is owing to my stay in Devappa's house.

3rd accused :—

I do not know anything. I was in the house without going anywhere. I heard exhibit P9 read out to me. I cannot understand anything. I do not know what, when and where I deposed. They beat me and pierced me with an awl. I do not know what I told and what I did not. What the Police tutored me I deposed. There is some zid between myself and Thippia P.W.1. The zid is owing to my father-in-law having intercourse with his sister (2nd accused). There were no dispute between myself and the deceased.

IN THE COURT OF THE FIRST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Thippiah, 1st witness for prosecution.

Age—30 years.

Race, Religion—Lingayet.

Father's name—Basappa.

Resident of—Vobalapur.

Occupation—Agriculture.

Duly sworn.—I know the accused. These belong to Vitlapur. I knew the deceased Nayakar Thimmaga. He is also of Vitlapur. The second accused is my own sister. My sister's daughter is given in marriage to the third accused Thimmia. The first accused is living with the second accused. All these three accused live in one and the same house. About 15 days prior to the murder I went to Vitlapur to see my brother-in-law Thimmia. After speaking to him I went to see my sister who was in the field and after speaking to her I retraced my steps towards my village. The 1st and 2nd accused were waiting for me near the roadside close to the village. I spoke to these and started for my village, and these two people

followed me a little distance and called me again and we all sat near a bandh. In the morning, on my way to Vitlapur, I met the 1st and 2nd accused. These were seated on the pial of their house. Both these people suggested to me that Bedar Thimmaga should be murdered, because he was threatening to beat the 1st accused with shoes and also because he was keeping the sister-in-law of the 1st accused and was speaking very disparagingly of both the 1st and 2nd accused. For these reasons they wanted me to murder the Bedar. I said I would take time to think over the matter, and in the pretext of going to the field I went away to Vitlapur. Again in the evening near the bandh where we sat, the subject of the murder of Bedar Thimmaga was broached. It was a Monday. As it was getting late I suggested that we could talk the matter over the next day at the Shandy at Devasamudra. I asked the 1st and 2nd accused to meet me there. The next morning, as promised I went to Devasamudra after breakfast and I met the 1st and the 2nd accused there. After making some necessary purchases in the Shandy we three met at the school. Accused Devappa and Thimmakka said that they would send the Bedar with their son-in-law Thimmaiya (3rd accused) that night and asked me to murder the Bedar. I asked them on what pretext they would manage to send the Bedar. They told me that the Bedar would be sent with an errand to purchase some poison at Konapur in order to poison Devappa the 1st accused and that 3rd accused would accompany him. The deceased was on friendly terms with the 2nd accused and was paying heed to her words. The 1st accused had refused to give a share to the 3rd accused and the 2nd accused had taken the cause of the 3rd accused in this respect. These facts which tend to show some motive to get rid of the 1st accused would make the deceased believe in the sincerity of the 2nd and 3rd accused to poison the 1st accused. The 1st and 2nd accused promised to send the Bedar that night to my village of Oblapura. I promised to wait for him near my Kapila well. After supper I went to the Kapila and waited there. There was heavy rain that night. The Bedar and the 3rd accused did not appear, and so I went home. On Wednesday evening my wife and children were taken away to Rampur by my father-in-law on account of Agnikonda there. I was alone in the house, and after supper I lay myself down on the pial when after every-

body had gone to sleep the 3rd accused came and roused me. I asked him why he had come at a late hour. He told me that he had brought the Bedar Thimmaga and that he was near the Kapila. I took the 3rd accused inside my house and told him that there was no one in the house that night. He however asked me to lock the door of the house and to accompany him. I asked him to take the hatchet (ಕೊಂಡಲಿ) Article No. 1 which was in the corner of the house and I suggested that I would go in advance and that he should follow the Bedar behind me. I found the Bedar near the Kapile and told him that he ought to have come the previous day alone. At any rate I told him I would take him to Konapur and obtain the poison (ಮುಮ್ಮಡಿ) and give it to them. We all started. I went first, the Bedar was behind me and the 3rd accused was behind the Bedar. I avoided the "Kuri Hatty's" as there were some dogs there. We went over the fields and again took the footpath. I left the footpath and took the cart track which runs across the footpath some distance from the village. A little while after I asked the 3rd accused Thimmia to give me chunam. I meant this as a hint to commit the deed as agreed to by us at home. The 3rd accused did not pay heed to my signal. After I covered a little distance, I asked for tobacco from the 3rd accused and made a sign (ಕೈಮಿಸಿಕೆ) and went in advance. Then the 3rd accused hit the deceased with the hatchet. The deceased cried "Ayyo" "Appa" and staggered and I turned round and saw when again the 3rd accused dealt another blow. The deceased fell down. Again two or three blows were dealt with on the neck. I saw the body. It did not move. I asked the accused (3) to go home, and I took two or three steps. The 3rd accused suggested that the head should be severed and taken and hidden. I agreed, and he went and tried to sever the head from the trunk by dealing 3 or 4 blows. The head did not come off, and I asked him to leave it and go with me. We proceeded towards home and in the channel the hatchet was washed by the 3rd accused and it was given to me. I also washed it and gave it to him. We came home and I asked him to go to his village. He was afraid to go alone. He asked me to accompany him, and I refused. I sent my servant with

him. The hatchet was put in my house. I asked my servant to bring the bullock which Devappa would give. Devappa had promised to give me either a bullock or fifty rupees if I did this deed. I got the bullock, and it is with me to-day. I surrendered myself to the Police at Molakalmuru as there was a rumour that the Police were after me. I produced the hatchet which was used to kill the Bedar. I made a statement before the Magistrate at Challakere. Exhibit P1 is the statement I made there, and it is correct.

Cross-examined by Mr. Anantha Chetty who appears for accused 1, 2 and 3.—Accused Devappa had not broached a similar subject to me before. I met the accused Nos. 1 and 2 first in the afternoon on the pial. It is a place which is frequented by people. There were noneelse present at the time. The first and the second accused both mentioned to me about the abusive language used by the deceased. I told the accused that it was improper to commit a crime of this nature. Then I went to see my sister. Again, on the same day in the evening I met the accused Nos. 1 and 2. There were noneelse present besides ourselves. I did not mention this fact to my sister or to anybody else. I did not give out the details of the suggestions of Devappa and Thimmakka on Tuesday morning either. The Shandy takes place behind the school. People were passing on the way. The school was closed. There was some slight misunderstanding between the 1st, 2nd and 3rd accused on account of the share of property which the 1st accused refused to the 3rd accused for the past two or three months. The third accused was on friendly terms towards the deceased. I surrendered myself to the Police in the morning and I was sent to Challakere in the evening. I reached Challakere the next day in the afternoon. My statement was recorded the next day as the Amildar was absent from the station the previous day—the day of my arrival. I gave a statement before the Police an hour or so after I surrendered myself to them. I can't say how many days after the occurrence I surrendered myself to the Police. I was not kept by the Police secretly for four or five days. They did not compel me to make my statement implicating the other accused. They did not promise to release me. Immediately after my return from Challakere, I was taken

to my house and I produced the hatchet. I mentioned about the hatchet to the Police on the first occasion. I was not taken to my village at once to show it. It was past midnight, when myself and the 3rd accused returned after the deed. I did not mention the fact to anybody even then. I asked my servant to bring a bullock from Devappa. I did not mention anything about the rupees. When the Bedar was not brought on the Tuesday I did not go to enquire, why he was not sent. I did not see the 1st and 2nd accused on Wednesday. I did not see them after the occurrence. Agnikonda takes place all the night. Many people go to see it. I did not go, because there was nobody at home. I wanted also to attend to the feeding of my cattle, and so I did not go to see the 'Agnikonda'. There was not much talking between the 3rd accused and the deceased. The Police did not induce me to make a statement here. I have made it of my own free will. The deed was committed about two miles from our village. The cart track is not at all frequented except by those who go for fuel to the jungle. Nobody goes there during nights. I am on friendly terms with the 1st accused. I have no ill-will against him because of my sister's presence in his house.

No re-examination.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

26-9-1917.

IN THE COURT OF THE FIRST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Gangappa, 2nd witness for prosecution.
Age—9 years.

Race, Religion—Lingayet.

Father's name—Basappa.

Resident of—Bommakkanahally.

Occupation—Agriculture.

Duly sworn.—Some days back I was driving cattle to the forest to graze. My cattle were going before me. I found a dead body near a tree (ತುಗ್ಗಿ ಮರ). I ran back to the village and met the Gowda, and I told him about the presence of a dead body. I was frightened at the sight of the body.

No cross-examination.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

26—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Mia Sabi, 3rd witness for prosecution.

Age - 60 years.

Race, Religion—Mahomedan.

Father's name—Mamu Mia.

Resident of—Bommakkanahalli.

Occupation—Agriculture and patel.

Duly sworn.—I know P. W.2 Gangappa. About a month ago on a Thursday at about 11 a.m., P. W.2. came and told me that a dead body was lying near a tree in the forest. I went to the spot with a few persons. I sent up a report to the Police. Exhibit P2 is the report I sent up in the case.

Cross-examination—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

26—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Mariyappa, 4th witness for prosecution.

Age—60 years.

Race, Religion.—Thalawar.

Father's name —Honnurappa.

Resident of—Vitlapur.

Occupation—Thalavarike.

Duly sworn.—The deceased Thimmaga was my son. About a month ago on a Wednesday about an hour after sunset he was on the pial after supper. He left the house some time after and did not return. The next morning I went to the Chavadi to see if he was there. He was not there. I searched for him in the neighbouring villages. On Friday I learnt that he had been murdered, and a Begar came and took me to the spot wher: the body of my son was lying. I identified the body of my son. I suspected the accused Devappa as the author of the crime. Accused Devappa had beaten my son with a shoe some 15 days prior to this occurrence in the pretext of his having stolen the pulley of the 'Kapile.' On account of this beating, my son was abusing the accused Devappa. I can't say how the 1st accused was disposed towards my son. My son has two sons. I do not know if he had kept anybody.

Cross-examined.—I did not see my son being beaten by the accused Devappa. Devappa had lost a wheel. The wheel was found and my son was warned by the patel and shanbhogue.

No re-examination.

Read and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

26—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Nagappa, 5th witness for prosecution.

Age—65 years.

Race, Religion—Naiker.

Father's name—Honnoorappa.

Resident of—Vitlapur.

Occupation—Agriculture.

Duly sworn.—The deceased Thimmaga is my brother's son. I know the accused Nos. 1 to 3. These were on good terms prior to the loss of the wheel of the Kapile. After that there was misunderstanding between the deceased and the accused. The wheel belonged to accused Devappa and it was missed about 2½ months ago. It was afterwards found in the field of the accused Devappa. Some days afterwards Devappa took me and the deceased to his Kapile and began to question the deceased about the wheel, etc. He denied having done anything with it. The accused thereupon took the shoe from his foot and beat the accused twice. The deceased went to the village and 4 or 5 days afterwards he abused outright the accused Devappa and also threatened to beat Devappa in the village itself with a shoe. Devappa had complained about the loss of the wheel, etc. For 15 days the accused Devappa and the deceased were enemies. Then they appeared to have compromised. The deceased was frequently visiting the 1st accused. Accused Devappa was giving him money for drink. I have also heard the deceased having kept the sister-in-law of the 1st accused. On this account I called upon my son to advise him. He was evading me. I saw him last on Wednesday. I did not see him after supper that day. He returned from Devasamudra that evening well drunk. He was not found the next day. On Friday a Begar came and took us to Kudlu Gudda where the body was lying. I identified the body. I suspected the 1st accused as the author of the crime, because there was enmity between him and my son.

Cross-examined.—The 1st accused was also near the body. He was not questioned there. My son denied having removed the wheel of the Kapile. When the deceased was beaten Mariyappa P. W4, Nagappa, Thammappa and others were present. The deceased did not complain about the beating to a Magistrate.

No re-examination.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

26—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Thimmakka, 6th witness for prosecution.

Age—40 years.

Race, Religion—Naiker.

Father's name—Kalapppa.

Resident of—Vitlapur.

Occupation—Agriculture.

Duly sworn.—Deceased Thimmaga was my son. I know the accused. I do not know if my son had kept anybody. The 1st accused and my son had quarrelled. I saw my son about a month and 8 days back on a Wednesday. He was not found the next day. The accused and my son were on inimical terms for some time. Then they compromised. The 2nd accused was also friendly towards my son. He was talking to her in the same manner as he was talking to others.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

26—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Mudiappa, 7th witness for prosecution.

Age—40 years.

Caste—Lingayet.

Father's name—Parappa.

Residence—Vitlapur.

Occupation—Agriculture.

Duly sworn.—I knew deceased Thimmaga about a month ago. I had seen him lying on my pial at about 7 p. m. An hour after I did not see him there. It was on a Wednesday that I saw him last.

Cross-examination—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

26—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Hanumantha, 8th witness for prosecution.

Age—13 years.

Race, Religion—Naiker.

Father's name—Hanumanthappa.

Residence—Vitlapur.

Occupation—Agriculture.

Duly sworn—.I knew deceased Thimmaga. Some days back I went to the Chavadi in my village. I found the deceased there. It was about 7 p. m. there. The 3rd accused came and called the deceased Thimmaga, and he went with him into the village towards the old house of the 3rd accused. Four or five days after the Madigars came and informed that a body was there with injuries.

Cross-examined.—I went to the Chavadi to sit there. I can't say the exact day. I went home and slept. I took my food and went to sleep. There was no one else present in the Chavadi. The deceased was my cousin brother. I did not mention the fact to my father or to his father.

No re-examination.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

26—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Basakka, 9th witness for prosecution.

Age—30 years.

Caste—Agasar.

Father's name—Kenchappa.

Residence—Vitlapur.

Occupation—Washing.

Duly sworn.—I knew deceased Thimmaga. I know 3rd accused Thimmiah Some days ago I saw the deceased and the 3rd accused going together from the Chavadi towards the house of Thimmaga (deceased) in the evening a little while after the lamps had been lit. The house of the deceased is about 50 yards from the Chavadi The house of the 3rd accused is in an another direction about 25 yards from the Chavadi.

Cross-examined.—The third accused was following the deceased about two yards away. It was on a Wednesday night. I did not mention this fact to anybody. Nobody else was present in the Chavadi. Nobody induced me to make this statement.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

16—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Doddabasappa, 10th witness for prosecution.

Age—40 years.

Caste—Kurubar.

Father's name—Basappa.

Residence—Vobalapur.

Occupation—Agriculture.

Duly sworn.—The Agnikonda took place on a Wednesday at Rampur. I was with Thippia in the Chavadi that night for the night watch. The Chavadi is at the entrance to the village. I saw the 3rd accused Thimmappa near the Chavadi. He entered the village and some time after both Thippanna (P. W.1) and the 3rd accused came together and passed us.

Cross-examined.—I saw also two others of our village passing through the Chavadi that right. It was supper time then. I have told the Police Inspector when he came to investigate the case about this. Myself and Thippaga went together to the Chavadi and sat on the katte. There was no light in the Chavadi. Thippia asked the 3rd accused who he was. He did not reply. I did not speak to the 3rd accused. I knew the 3rd accused was a man of Vitlapur. I asked Thippiah who the 3rd accused was. Thippiah said that the 3rd accused appeared to be a man of Vitlapur. I did not go near the 3rd accused. There were none else near the Chavadi. Ten days after I got my turn to keep the watch. I can't say the day of the week.

Re-examined:—I was near a pillar and I could not see well the 3rd accused going and so I asked Thippia. There was 'Agnikonda' on that day and

so I could remember the day of the week. The 3rd accused was coming to our village off and on, and so I know him. I could see the 3rd accused passing as I was close to him. The passage in the Chavadi is narrow.

Read over and admitted correct.

(Initialled). T. V. A. I.

Magistrate.

26—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Thippiah (Melur), 11th witness for prosecution.

Age—39 years.

Race—Lingayath.

Father's name—Basappa.

Resident of —Vobalapur.

Occupation—Agriculture.

Duly sworn.—Myself, Basappa, Thimmappa and Talwar Lakshma with two (2) Begars kept the night watch on a Wednesday night on the day in which Agnikonda was celebrated in the village of Rampur. I saw Vitlapur Thimmiah entering the village. I spoke to him. It was past supper time then. Myself and Basappa (P. W.10) were there. The others mentioned above had gone to sleep. Thimmia took back Thippia (P. W.1.) These two went out together.

Cross-examined.—I know third accused Thimmia for a long time. When I spoke to him, he did not reply. I did not go near and talk to him. Basappa (P. W.10) did not challenge him. When I challenged him, he turned round and I found out that it was Vitlapur Thimmia. P. W.10 also saw him. 3rd

accused Thimmappa and Basappa were there when I went to the Chavadi. All were seated. I gave betel leaves to Basappa (P. W.10). I did not mention the fact to anybody. When we were seated there, none else passed into the village as I saw.

No re-examination.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate

26—9—17.

IN THE COURT OF THE FIRST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Dodda Thimmiah, 12th witness for prosecution.

Age—45 years.

Race, Religion—Lingayat.

Father's name—Vadakappa.

Resident of—Vitlapur.

Occupation—Agriculture.

Duly sworn.—I know the accused. I knew deceased Nayakar Thimmiah. The accused Devappa was inimically disposed towards Thimmaga for the past two or three months. The deceased was abusing the 1st accused, because he had beaten him with a shoe in the field of the 1st accused. Thimmaga was also telling that the 1st accused had in his house Thimmakka (2nd accused) who had intercourse with a Madiga and that he was in no way in-

ferior to such a men while he himself had kept the sister-in-law of the 1st accused. He was also openly saying in the village that he would take retaliation on the 1st accused by slippering him in the village itself the same way as he was beaten in the field by the 1st accused. I went and told the 1st and the 2nd accused when they were seated on a pial on the same day that the deceased abused them. All this took place about a month and a half ago. Three days after, on a Tuesday, I met Thimmappa 2nd accused in the field of the 1st accused Devappa. I asked her where she was coming from. She told me that she had gone to see Bedar Thimmaga. I asked her why she went to see him as they were not in friendly terms. To this, she said that she had contrived to deceive him by telling him that she intended to get rid of Devappa by poisoning him, because he did not give a share to his son in-law the 3rd accused and that she also further made it appear to him that he would be free to visit her (Thimmakka) at his will and pleasure. She told me that she had arranged to send her son-in-law (3rd accused) with the Bedar to go and fetch the poison from her brother Thippiah at Oblapur. She further told me that arrangements would be made to kill the Bedar on the way to Obiapur on this false errand. I advised her that she should not have recourse to these improper deeds, and I went home. On Thursday I learnt that the Bedar had been hacked. Four days after the Police Inspector came to our place, and when he questioned me I gave out the details as above. My house is about 20 yards from the house of the accused. I have no ill-will against the accused. I am not related to them.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE FIRST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Thippaga, 13th witness for prosecution.

Age—35 years.

Race, Religion—Naiker.

Father's name—Guddappa.

Resident of—Vitlapur.

Occupation—Agriculture.

Duly sworn.—I know the accused. I knew deceased Thimmaga. About 2½ months ago School-master Gangiah was playing violin on the pial of the new house of the 1st accused Devappa. It was about supper time. There were present at the time Nagappa and Devappa 1st accused. Myself and deceased Thimmaga went and sat on the same pial near Gangiah when the 1st accused asked us not to sit on the pial and to sit on the ground as we were not his equals in position and status. We did not choose to remain there, and so we went away. Two or three days after this incident the 1st accused was complaining that he had lost a wheel of the Kapile and he had complained against Thimmaga on this account. The Jamadar came and enquired and nothing came out of this. Thereupon the deceased began to abuse the 1st accused and also because he (Devappa) had beaten the deceased with a shoe in his field on the pretext of his having removed the wheel of the Kapile and also because of the ill-feeling that existed between the deceased and the 1st accused by the former keeping the sister-in-law of the 1st accused. The deceased was also openly saying that he would one day slipper the 1st accused in the bazaar in retaliation.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Gangiah, 14th witness for prosecution.

Age—28.

Race—Jangam.

Father's name—Gurubasiah.

Resident of—Vitlapur.

Occupation—Private Schoolmaster.

Duly sworn.—I know 1st accused Devappa and also Bedar Thimmaga. I live in the house of the 1st accused. I play on the violin. About $2\frac{1}{2}$ months ago after supper I was playing on the violin on the pial of the house of the 1st accused. The 1st accused was also there. Thippaga (P. W 13) and deceased came and sat by my side. Thereupon the 1st accused asked them to sit on the ground and not on the pial with me, because I was an "Iyyanavaru". The deceased and Thippaga (P.W.13) did not choose to sit on the ground and went away.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE FIRST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Patel Thippanna, 15th witness for prosecution.

Age—50 years.

Race—Lingayat.

Father's name—Basappa.

Resident of—Vobalapur.

Occupation—Agriculture and pateli.

Duly sworn.—I know Thippiah P. W.1. Thimmakka 2nd accused is the sister of Thippiah. She was in our village till her marriage. She left our village and she is now in Vitlapur in the house of Devappa 1st accused. She has given her daughter in marriage to the 3rd accused and they all live together. Thimmakka's husband had petitioned to the Parvatha Matta that she had kept a Madigar and on that account she had been excommunicated for one year. The bane of excommunication was removed. On the day the Agnikonda was made in Rampur I had named P. W's 10 and 11 and some others for the night watch. It was a Wednesday night. The second accused's husband is now dead.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE FIRST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Giddanna Gowda ,16th witness for prosecution.

Age—45 years.

Race, Religion—Lingayat.

Father's name—Mallan Gowda.

Resident of—Rampur.

Occupation—Patali and agriculture.

Duly sworn.—There was "Agnikonda" in our village this year on the 22nd of August last on a Wednesday night.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Hirdalappa, 17th witness for prosecution.

Age—28.

Race, Religion—Kurubar.

Father's name—Muddabasappa.

Resident of—Vitlapur.

Occupation—Agriculture and pateli.

Duly sworn.—I know the accused. I knew deceased Thimmaga. The 1st accused on the 16th of July last had complained to me that he had lost a wheel, etc., of his Kapile. I reported the matter to the Rampur Station. Exhibit P3 is the report I sent to the Police. The 1st accused was inimically disposed towards the deceased, because the latter had kept the sister-in-law of the 1st accused. The deceased was openly saying in the village that he would slipper the 1st accused in the public street, because the 1st accused had slippered him in his field on the plea that he had removed the wheal of the Kapile but really for the reason that he had kept the sister-in-law of the 1st accused. I had seen the deceased on Wednesday in the evening.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Madigar Hanumantha, 18th witness for prosecution.

Age—20 years.

Race, Religion—Begar.

Father's name—Voba.

Resident of—Vobalapur.

Occupation—Cooly or servant.

Duly sworn.—I am a servant under Thippia P. W.1. I know the 3rd accused. On a Wednesday night the 3rd accused had come to the house of my master Thippia. My master asked me to go with the 3rd accused and bring a bullock which he would give. It was about 3 or 4 a. m. I went with the 3rd

accused to Vitlapur and slept in the house of Devappa (1st accused) a little while because it was still dark. The 1st accused came and spoke to me. He gave me a bullock and I drove it to my master's village and gave it to him. Art. (1) belongs to my master. My master and the Police came to our village some days ago and when my master asked for the hatchet I gave it to him.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Dattappa, 19th witness for prosecution.

Age—55 years.
Race, Religion—Brahmin.
Father's name—Karianna.
Resident of—Rampur.
Occupation—Shanbhogue.

Duly sworn.—I am the Shanbhogue of Rampur. I had gone to Oblapur on the 10th instant. The Police Inspector was there) P. W.1 Thippia was in the temple and he took me to his house and produced the hatchet (Article 1). He asked his servant P.W.18 about the hatchet and produced it. The Police took charge of the hatchet.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Basappa, 20th witness for prosecution

Age—29 years.

Race, Religion—Raddiga.

Father's name—Lakshmia.

Resident of—Thammanahalli.

Occupation—Shanbhogue.

Duly sworn.—I was present at the inquest held over the body of Bedar Thimmaga of Vitlapur. There were injuries on the neck, shoulder and wrist. I have attested the inquest report.

Cross-examination—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of T. Lakshmia, 21st witness for prosecution.

Age—38 years.

Race, Religion—Kurubar.

Father's name—Lakka Naik.

Resident of—Molakalmuru.

Occupation—Police Inspector.

Duly sworn.—On 23—8—17 I had camped at Rampur. I got the report of the Bommakkanahalli Patel. Exhibit P2 is the report which was received. The facts stated in the report were that a body of a male individual was lying in the old cart-track leading to Kudlagudda with several injuries on the neck, etc. I proceeded to the spot immediately after submitting an F. I. R. under Section 302 I. P. C. I examined the body in lamp light. There were blood clots near the injuries in the neck, wrist, etc. I arranged for the guarding of the body, and arranged also to trace the relatives of the deceased in the villages closeby. I camped at Konapur, a village about half a mile from the scene of occurrence. The next day 24 8—17 Vitlapur Nagappa (P. W.5) uncle of the deceased, Mariyappa the father of the deceased came and identified the body. I held the inquest over the body and had also arranged for a photograph being taken of the body. The body was lying on its back. Exhibit P4 (a and b) are the photographs of the body. There were eight cuts in the neck, one cut on the left wrist and one cut behind the left shoulder. The 'panche' was blood stained. The banyan and the upper cloth (ಕಬ್ಬೆ) were drenched in blood. The banyan and upper cloth had also been cut in some places. There were blood marks on the ground. The body was lying in S. No. 33 of Bommakkanahalli village. At the time of the inquest I examined Nagappa (P. W.5) uncle of the deceased, Mariyappa (P. W.4) father of the deceased, Gangappa (P. W 2) of Bommakkanahalli and

Patel Mia Sabi (P. W.3). The post mortem examination took place on the spot and I was present at the time on the same day (24th). I examined Venkappa and Constable Gudu Sab, No. 333. On the 25th at Vitlapur I examined the following:—Mudiyappa (P. W.7), Thimmakka P. W.6, Rajju Sab and others. On the 26th at Vitlapur I examined Patel Hirudalappa P. W.17, Gangiah P. W.14, Hanuma uruf Rogadavanu P W.8, Agasara Basakka P. W.9 and others. On the 27th idem I examined the persons that were in the night watch in the village of Vitlapur. On the 28th I arrested the first accused Devappa and I also examined Dodda Thimmia P. W.12. On the 29th at Oblapur I examined Patel Thippanna P.W.15, Kurubar Doddabasappa P. W.10, Vellore Thippia P.W.11, Madigar Hanumantha P. W.18 and others. At Rampur on the same day I examined Giddan Gowda, Patel of Rampur (P.W.16). I sent the 1st accused to Challakere to obtain a remand. On the 1st of September the 3rd accused was produced before me by Daffedar Narsoji who arrested him at Pennamanahalli. I seized the pauche (Art II) worn by this accused as it had blood stains, and sent it for examination to the Chemical Examiner in charge of P. C. No. 133 Ibrahim. I sent the 3rd accused on the 1st September to the Challakere Amildar Magistrate for a record of his statement and to obtain a remand. On 6—9—1917 the 2nd accused and P.W.1 surrendered themselves at Molakalmuru and I arrested them. I sent these two on the same day to the Amildar Magistrate at Challakere for a record of their statements and to obtain a remand. On the 10th instant P. W.1 produced the hatchet Art. No. 1. I sent this also to the Chemical Examiner with P. C. 584 Abdul Rahim On this day I examined Thippaga P. W 13, Sannavanu and others. On the 13th instant I submitted the charge-sheet in the case. I got the post mortem examination certificate on 27—8—17 from the Sub-Assistant Surgeon and I got the countersigned P. M. certificate on the 30th idem. I received the Chemical Examiner's certificate as regards Art. No. 2 on the 10th instant. Exhibit P5 is the post mortem certificate. Exhibit P6 is the Chemical Examiner's certificate. Exhibit P7 is the certificate I got from the Chemical Examiner on an examination of the hatchet (Art. 1).

13/9/17

27/8/17

30/8/17

Cross-examined.—I sent the accused for remand about 24 hours after arrest and some even earliar.

The 2nd and 3rd accused were sent about 12 hours after arrest to Challakere in order to obtain a remand. A remand for 15 days was obtained for the 1st accused and a similar period for the 3rd accused. The 2nd accused and P. W.1. were given 10 days' remand each. I did not hold out any promise to these accused. The accused of their own accord gave out the details of the crime. I sent the accused in charge of an officer and constables. The accused are in charge of the lock-up officer of Molakalmuru. They are looked after by the Police. I have nothing to do with the lock-up now. I do not know about my Jamadar. I did not send for the relatives of P. W.1 and to make them induce P. W.1 to give a statement.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27 - 9 - 1917.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Channabasappa, 22nd witness for prosecution.

Age—29 years.

Race, Religion—Lingayet.

Father's name—Channabasappa.

Resident of—Molakalmuru.

Occupation—Merchant.

Duly sworn.—I had seen the 3rd accused wearing this Panche Article 2 at Molakalmuru on the 1st instant when it was seized by the Police, because it had blood stains. The Panche was packed and sealed in my presence.

Cross-examined.—I examined the person of the accused then. He was suffering from itches then also, but not much. Now he has plenty of it.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—7—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Ebrahim, 23rd witness for prosecution.

Age—29 years.

Race, Religion—Mahomedan.

Father's name - Khader Sab.

Resident of—Molakalmuru.

Occupation—Police Constable No. 133.

Duly sworn.—I am attached to the Police force at Molakalmuru. On the 4th September the Police Inspector gave to my charge a sealed packet to be taken to the Superintendent of Police at Chitaldroog and with the same packet I was sent to the Chemical Examiner's office at Bangalore. I gave the packet to the office there. On the 7th idem they gave me a sealed packet and I brought it to Molakalmuru and gave it to the Police Inspector at Kasaba Molakalmuru.

No cross-examination.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

27—9—17.

IN THE COURT OF THE 1ST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of M. Nanjundiah, 24th witness for prosecution.

Age—50 years.

Race, Religion—Aradiah.

Father's name—Nagiah.

Resident of—Molakalmuru.

Occupation—Sub-Assistant Surgeon.

Duly sworn.—I am in charge of the Lcoal Fund Dispensary at Molakalmuru. On the 24th of September I proceeded to Kudlu Gudda at the request of the Taluk Police Inspector to hold a post mortem examination. I held the post mortem examination on the body of Thimmaga. I gave a certificate exhibit P5. On examination I found on the neck of the body eight incised wounds and on the left wrist there was a cut and in the back of the left shoulder there was another wound. These were the ten injuries on the body. Death was due to hemorrahage caused by the several injuries on the neck. These injuries must have been caused by a sharp instrument. Article 1 would cause the injuries of the kind mentioned in the certificate.

Cross-examination.—Reserved.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

8—10—17.

IN THE COURT OF THE FIRST CLASS MAGISTRATE, CHITALDRUG SUB-DIVISION.

Criminal Case No. 17 of 1917—18.

Deposition of Thippia alias Sannavanu, 25th witness for prosecution.

Age—38 years.

Race, Religion—Naiker.

Father's name—Thippia.

Resident of—Vitlapur.

Occupation—Agriculture.

Duly sworn.—I know the deceased Thimmaga. I know the accused. The 1st accused had complained of theft of a pulley (wheel) against the deceased. The Jamadar came and investigated the complaint. I saw the deceased Thimmaga secreting a pulley in a hay-stack about 2½ months ago when I had been outside for purposes of nature. The pulley was taken over by the Police afterwards. The deceased was saying in the village that the 1st accused had beaten him with a shoe and that he would take his revenge on Devappa. He was further saying that he who had kept the sister-in-law of the 1st accused was not in any way inferior to the 1st accused who has kept a woman who had intercourse with a Madigar. He was proclaiming in the village that he would beat Devappa openly in the village itself.

Cross-examined —I did mention about the pulley to the Jamadar. The case was dropped for some reason or other. I have heard the deceased abusing the 1st accused. I do not know the truth about the deceased keeping the sister-in-law of the 1st accused. Ever since the pulley case the deceased was abusing the 1st accused. I used to hear his abuses almost every day. I am related to the deceased.

No re-examination.

Read over and admitted correct.

(Initialled) T. V. A. I.,
Magistrate.

8—10—17.

IN THE CHIEF COURT OF MYSORE.

Criminal Appeal No. 63 of 1917—18.

Criminal Referred Case No. 8 of 1917—18.

1. Devappa
2. Thimmakka } ...Accused ...Appellant.
3. Thimmappa

Vs.

Government ...Complainant ...Respondent.

Under Section 410, Criminal Procedure Code.

The appellants abovenamed beg to appeal from the conviction and sentence of the Court of Sessions at Shimoga, in Chitaldrug Sessions Case No. 6 of 1917—18 on the grounds :—

1. That the learned Sessions Judge, has not correctly appreciated the evidence.

2. That the evidence of the approver is highly interested and unreliable.

3. That the Judge also erred in relying on the retracted confessions of the accused 2 and 3 which are not shown to be voluntarily made ; he also erred in considering such confessions as evidence against the 1st accused.

4. That neither the evidence of the approver nor the retracted confessions is corroborated in any material particulars.

5. That the learned Sessions Judge ought not to have examined every witness for the prosecution, by what are called Court questions in a leading form, though Law gives him the privilege, without affording an opportunity to the accused to further cross-examine the witnesses on their answers.

6. That under any circumstance, the sentence of death is very severe.

(Signed) C. Krishnamurti,
Advocate for appellants.

2—1—1918.

IN THE CHIEF COURT OF MYSORE.

Criminal Appeal No. of 1917—18.

Devappa Vs. Government.

The appellant begs to appeal against the conviction and sentence of death passed in Chitaldrug Sessions Case No. 6 of 1917—18, dated 5th December 1917, by the Sessions Judge of Shimoga, and the grounds briefly are:—

1. That the learned Judge has not correctly appreciated the evidence on record. His conclusions regarding the conspiracy in which the appellant is presumed to have taken part in the murder of Thimmaga, are neither sound nor probable to any degree of natural presumptions.

2. The entire prosecution evidence consists of a theory concocted by the Patel Hiridala Gowda and his partizans, the sworn enemies of this appellant.

3. The motive set forth by the Police and the patel for this appellant to commit a murder of the kind is flimsy and not sufficient to justify a conviction.

4. The confessions of the 2nd and 3rd accused were procured under very objectionable treatment of those accused and should not even if true have been given any weight as against this appellant.

5. The approver has been the patel's creature since the land dispute arose between the parties, and his evidence is discrepant on material points, which the learned Sessions Judge ought to have accepted the approver's evidence with caution instead of entirely adopting it as solid truth.

6. It is untrue that this appellant was keeping the 3rd accused as his mistress, a woman of a different place outside the province and much his senior in age, while this appellant himself has grown up sons and a wife, with a landed estate of over 120 acres in Vitlapur. It is very unfortunate that the name of the appellant's wife is also Thimmakka and

may have served well the patel's cause in inventing a false relationship to disgrace and bring the appellant into trouble and curse his aim.

7. There has been ill-feeling between the patel and the approver on one side and the appellants 1 and 3 on the other in respect of repurchase of 60 acres, at this appellant through the approver's intervention of the original rate and which the appellant totally refuséd.

8. The report of theft of pulleys of this appellant was against no specified individual and is unnecessarily made much of and the sentence is excessive.

9. The judgment is otherwise opposed to law, evidence and probabilities of the case.

Left thumb mark of Devappa No. 2942.

(Signed) .....
Chief Jailor, B. C. Jail.

31—12—17

BEFORE THE HONORABLE CHIEF COURT OF MYSORE, BANGALORE

Criminal Appeal No. of 1917—18.

Section 401 C. P. C.

Thimmakka. Vs. Mysore Government.

The appellant, condemner to death by the Sessions Judge, of Shimoga in Criminal Case No. 6 of 1917—18. Chitaldrug Sessions, begs to appeal to this Honorable Court on the following grounds :—

1. That she has not committed any offence at all while the prosecution evidence is concocted to make it plausible.

2. The appellant, a mother of six children, of whom two only are now alive and are grown up, became widowed three years ago at an advanced age of over forty and was not keeping the 1st accused.

3. The relation between the appellant of her brother (approver) was strained to the highest degree since she gave her daughter in marriage to the third accused much against his protestations. The said approver not only absented himself from the marriage and but objected to others attending the same.

4. The approver has all along been under the patel's thumb and has taken advantage of the earliest opportunity however unnatural for a brother to make common cause with the patel and Thimmayya and thus to secure his object.

5. That she is an ignorant woman and was wholly mislead by the Police to depose to their dictation (tutored version) at Challakere under various threats against female decency held out to her by the Police.

6. There is no satisfactory reason why she should conspire against the deceased when her residence was outside the province.

7. The decision is thus against law, evidence and probabilities of the case, and as she has been given no copy of the judgment to be filed with the appeal she begs that the other grounds may be graciously considered at the time of the appeal being argue

Left thumb mark of Thimmakka No 2940.

(Signed.) .....
Chief Jailor, B. C. Jail.

31-12—1917.

TO THE CHIEF COURT OF MYSORE,
BANGALORE.

Criminal Appeal No. of 1917.—18.

Thimmappa Vs. Mysore Government.

This appellant begs to appeal to this Honorable Court against the conviction and sentence passed in Session Case No. 6 of 1917—18 of the 5th December 1917, and the grounds in brief are that:—

1. That he committed no offence whatever and is wholly innocent.

2. The patel and the Police got up false witnesses to swear against him in the case. They are all interested and unreliable while the lower Court has attached undue importance to the evidence of the approver instead of accepting it with caution.

3. There was no motive for the appellant to murder Thimmaga, and the learned Judge is not justified in

(a) presuming that this appellant was aware of the entire evidence collected by the Police against him before he made the confession P 14;

(b) thinking that the confession was voluntarily made to secure the case of mind (?) and further that mere threat is insufficient to procure a confession while torture may precede a confession or follow if one is not made.

4. If according to the lower Court there was evidence against the appellant the hot haste with which confession was secured proves beyond doubt that the confession was got up merely to strengthen their theory.

5. The appellant submits that the approver first opposed his marrying the daughter of the 2nd accused and being sorely disappointed was easily made cat's paw of by the scheming patel and Thimmiah the sworn foes of appellant and uncle.

6. The Judge who characterised his explanation as to blood stains on the panche as ingenious could have easily satisfied himself and verified the fact that in Court while making statement appellant was suffering from sores which were shewn to the Court. The appellant has thus been highly prejudiced by such omissions as also non-granting a judgment copy.

7. The judgment is otherwise opposed to law, evidence and all probabilities of the case,

Left thumb mark of Thimmappa No. 2941.

(Signed) .....
Ch ef Jailor, B. C. Jail.

31—12—1917.

G. R S. VI—s-III/33]

DRAFT.

SUBJECT .....

.....

.....

Section. e15
File No. 63-18
Serial No. 2

No. 49635/Gel One file & the order of His Highness.

Diary No. of letter replied to.....

To

The Registrar of the Chief
Court of Mysore.

GENERAL AND REVENUE SECRETARIAT,
( )
, *the*.....191

Date of issue 28/11/18

Signed by Mr E S. Iyer.

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoners Devaraja, Thimmaka and Thimmah accused in Criminal Sessions Case No. 6 of 1917-8 undergoing sentence of death in the Bangalore Central Jail, copy of order passed by H. H. the Maharaja of Mysore, on the prisoner's memorial.

.....

2. The entire records received with your letter No. 162/Cr dated 24/27 Aug 1918 are herewith returned.

I have, etc.,

For Chief Secretary

IN THE CHIEF COURT OF MYSORE AT

BANGALORE.

Criminal Appeal No. 63 of 1917—18.

Crml. Referred Case No. 8 of 1917-18.

Chitaldrug Sessions Case No 6 of 1917-18 on the file of the Sessions Judge, Shimoga Division.

1. Devappa.
2. Thimmakka. } ...Applts. (Accused)
3. Thimmappa.

(By Mr. C. Krishna Murthi)

Vs.

Govt. of Mysore....Respdt. (Complt.)

(By Mr. C. S. Doraswami Iyer
Government Advocate.)

Instituted on—3—1—1918.

To be heard on:— 11.7.18.

Decided 15-7-18

National Press, Bangalore.

29-7-18

5-8-18

In the Matter of a Memorials of Devappa and two others accused in Chitaldrug Sessions case No. 6 of 1917-18 on the file of the Sessions Judge of Shimoga Division and appellants in criminal Appeal No. 63 of 1917-18 on the file of the Chief Court praying for remission of sentence of death passed on them.

His Highness the Maharaja directs that the Memorials be rejected.

Draft

Dewan

23.11.18

(Draft)

CR

28/11/18